

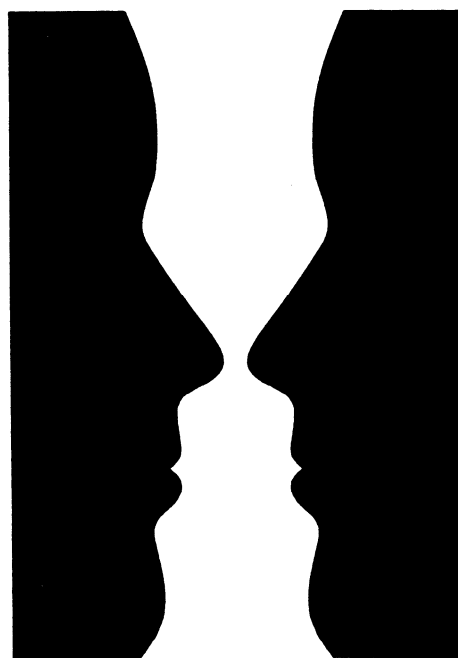


U.S. Department of Justice

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# **Victim Offender MEDIATION**



**Conflict Resolution and Restitution**

VICTIM OFFENDER MEDIATION:  
Conflict Resolution and Restitution

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## ABSTRACT

During the past decade, programs providing victim offender mediation and reconciliation services have been initiated in a growing number of communities. Through the application of both conflict resolution and restitution techniques, victims and offenders are given the opportunity to confront each other in the presence of a trained mediator. Victims have an opportunity to get answers to many lingering questions and to let the offender know how they felt about their behavior. Offenders are held personally accountable and are able to take responsibility for repairing some of the damage caused by their criminal behavior. Many of these local efforts are called Victim Offender Reconciliation Programs (VORPs). They represent one of the few community correctional programs that work jointly with victims and offenders.

The purpose of this monograph is to examine the following: how the VORP concept specifically, as one of the most developed models in the victim offender mediation field, originated; the basic program elements; replication issues and efforts; research findings; and future implications. The monograph draws primarily upon the experience, program materials, surveys and research of the National Victim Offender Reconciliation Resource Center of the PACT Institute of Justice in Valparaiso, Indiana.

While certainly not meant for all victims and offenders, the victim offender mediation and reconciliation process has benefitted many who have participated in it. At a time when increasing concern is being expressed about the role of victims in the justice system, the process of mediating victim offender conflict can provide a unique opportunity for interested victims to become directly involved in the sanctioning process of the offender who violated them. It may also relieve some of their fear and frustration.

## ACKNOWLEDGEMENTS

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John Gehm, Research Associate, coordinated the preparation of the first National VORP Directory, which provided important data for this project. Having worked closely with Dr. Coates on the VORP research project, he also had many helpful insights. In addition, a special note of appreciation is due John Gehm for the many hours he spent editing the final draft of this monograph.

Three other colleagues took the time to review the final draft and offer helpful suggestions. As one of the initial developers of the first VORP in Elkhart, Indiana, Howard Zehr of the Mennonite Central Committee Office on Criminal Justice clarified a number of important points related to the early history of VORP. Barbara Schmidt, Director of the Victim Offender Mediation Service in Wichita, Kansas, and Professor Burt Galaway (University of Minnesota Social Work Dept.), who directs the VORP in Minneapolis/St. Paul, both provided much welcomed practitioner-based feedback on the monograph. A special thanks is due to each one of these colleagues.

Finally, the patience and competence of Mary Vrska in typing portions of this report was also very much appreciated. In addition, much of this monograph grows out of the collective experience and openness of many VORP practitioners throughout the country who are pioneering the victim offender mediation and reconciliation concept. The leadership of my PACT colleagues Paul Landskroener (Porter County PACT VORP), as well as Russ Leinbach and Mark Stein (Hoosier Hills PACT VORP) is particularly appreciated as they continue to implement and experiment with many of the concepts highlighted in this monograph. While space does not allow the many other Individuals and organizations to be named, appreciation to all of these VORP practitioners must be expressed.

## CHAPTER I: HISTORY OF CONCEPT

Programs providing victim offender mediation and reconciliation services facilitate face-to-face meetings between those individuals whose property (or, at times, person) has been violated and the criminal perpetrator. During this meeting, conducted in the presence of a trained staff person or volunteer mediator, the facts and feelings associated with the offense are discussed and a mutually acceptable restitution agreement negotiated. While there is considerable diversity in the manner in which local communities choose to develop their own programs (addressed in subsequent chapters of this monograph), it is important to begin with a historical understanding of the context out of which the victim offender reconciliation concept developed.

From the beginning it should be made clear that facilitation of face-to-face meetings between victims and their specific offender is not a phenomenon that is exclusive to what is now known as the Victim Offender Reconciliation Program, or "VORP," as well as related projects. In the early 1970s the Minneapolis Restitution Center operated as a residential alternative to continued incarceration for certain property offenders. This project received a great deal of national attention and recognition because of its focus upon facilitating restitution payments by offenders to their victims through face-to-face meetings in the presence of one of the program counselors. The nature of these meetings was quite utilitarian, focusing upon how much restitution was owed and how soon it could be paid. Despite the nationwide interest in this pioneering restitution effort, the program was later terminated by the Minnesota Department of Corrections because referrals had dropped significantly as a result of new leadership and policies of the Parole Board. Therefore the costs of operating a twenty-four hour staffed residential center could not be justified. Restitution efforts continued as an additional function of certain Court Services and Probation staff, but no longer from the base of a residential program. Conducting victim offender meetings apparently did not continue.

Again during the early and mid-1970s, a significant number of juvenile offenders in Oklahoma who had a restitution responsibility also had some level of victim contact, either through a brief meeting or a letter. The impact of such victim contact upon 135 juvenile offenders is documented in a research study, a doctoral dissertation by Leonard J. Guedalia, in 1979. He found that those juveniles with a restitution responsibility who had some contact with their victim (presumably far less than in VORP) had significantly lower recidivism rates than similar juveniles who had no victim contact. There was no "VORP" in Oklahoma at this time, nor were there many VORP-type programs in other jurisdictions. In his concluding comments, Guedalia stated that more direct victim offender contact, in appropriate cases, should probably be encouraged, given the very positive findings of his research. More about this research is highlighted in Chapter IV.

While providing on-site technical assistance to local organizations developing new Victim Offender Reconciliation Programs in LaCrosse and Milwaukee, Wisconsin, this author learned that two judges had ordered

certain offenders to meet their victim and pay restitution. Both efforts were administered by probation staff but apparently fizzled out over time because victims were unwilling to participate. Other attempts by local courts and probation staff to have selected offenders meet their victim, usually to discuss restitution, have occurred as well.

While the concept of having offenders meet their victims is obviously not entirely new, what is quite unique is the move away from the almost exclusively utilitarian goal of restitution collection to a broader interpersonal conflict resolution goal. This is best exemplified by the pioneering Victim Offender Reconciliation Program effort in Kitchener, Ontario. To some, this might not seem a significant distinction, particularly since restitution is collected no matter which goal is emphasized. To many VORP practitioners and advocates, however, there exists a fundamental difference between a program which focuses exclusively upon the utilitarian goal of restitution collection and a program which attempts first to facilitate some degree of reconciliation of the conflict between the two parties through encouraging honest expression of feelings and clarification of facts related to the criminal event. While negotiation and payment of restitution is an important part of any program providing victim offender reconciliation services, it tends to be viewed as simply a tangible symbol of the reconciliation which has occurred.

Although a specific VORP meeting may result in a very lenient and, perhaps, unclear restitution agreement one might still consider it to be a high quality case if the initial process of clarifying facts and feelings went exceptionally well. In a purely utilitarian program such a case might be viewed quite unfavorable since only a small portion of the full amount of victim losses may have been paid by the offender as a result of the mutually agreed upon restitution contract.

There is no question that this emphasis upon reconciliation and inter-personal conflict resolution is a result of the strong religious roots of the victim offender reconciliation concept. Both the first VORP project in Kitchener, Ontario, and the initial replication in the United States, beginning in Elkhart, Indiana, were the direct result of the creative vision of Mennonite probation officers and community volunteers. This vision was rooted in their religious convictions to apply peacemaking at a very personal level as an alternative to the frequent depersonalization, frustration and trauma engendered by the criminal justice system. Howard Zehr of the Mennonite Central Committee Office of Criminal Justice, one of the early founders of VORP in Elkhart, emphasized this strong religious value base of VORP in one of the initial pamphlets describing the program.

The Biblical perspective thus seems to view crime as a rupture, a wound in the health of the community that must be healed. The emphasis is upon healing -- reestablishing right relationships -- through reparation rather than retribution. The aim is to restore persons to community. This means too that the Bible is concerned about the feelings underlying an offense. The enmities -- frustrations, angers and hostilities caused by crime -- must be



addressed for the crime to be "solved". This also implies that all of us, offenders, victims and the community at large, have a responsibility in this healing process.

While the continuing interest and commitment of criminal justice professionals and community volunteers to developing local programs to provide victim offender reconciliation services has long since branched out into a rather diverse constituency, reflecting other religious traditions as well as primarily secular values, recognition must be given to the enormously creative influence of the Mennonite faith in pioneering this reform. Once again the religious community has played a very influential role in advocating an important reform, just as it has with a number of other criminal justice reforms, including the initial development of probation services and half-way houses. Having said this, Let us now look closely at precisely how and why VORP first began in Canada.

### **KITCHENER, ONTARIO**

The initial project in Kitchener, Ontario, originated as a joint effort of the Waterloo Region Probation Department and the local Mennonite Central Committee, a chapter of a national and international social service agency of the Mennonite and Brethren in Christ Churches. In May of 1974, Mark Yantzi, a Mennonite probation officer for the Waterloo Region, was asked by a local judge to prepare a pre-sentence report for two young offenders who had just pleaded guilty to twenty-two different charges in a well publicized case involving damage to cars, slashing of tires, and breaking windows. This night of drunken vandalism resulted in a great deal of frustration and anger within the Kitchener community, including the several churches and stores that had been victimized. Having been partially persuaded earlier by the belief of Dave Worth of MCC that reconciliation of victim offender conflicts might work, Yantzi and Worth decided that this specific case might be just the one necessary to test the concept. While Judge McConnell was certainly not overly optimistic about the probable results of such an encounter, he did sentence both youths to probation and required them to make restitution through a face-to-face meeting with their victims. The two young offenders met with all of their twenty-two victims except two who had moved. The first sentence of its kind in Canada, Judge McConnell, as well as Yantzi and Worth, was so impressed with the potential value of this experiment that the first "Victim Offender Reconciliation Project" on the North American continent was launched shortly thereafter.

While this initial VORP grew out of a joint public and private sector initiative, it was entirely administered by a private community based organization. Within a relatively short period of time, VORP began to be replicated by many public and private sector agencies in different provinces of Canada.

## **ELKHART, INDIANA**

It was not until 1978 that the concept of victim offender reconciliation began to take form in the United States. Once again, as the result of the efforts of several local probation officers and the Mennonite Church, VORP began to develop on a very small scale in northern Indiana in Elkhart County, a community of approximately 137,000. Probation officers Lonnie Buerge and Steve Miller, along with Howard Zehr of the Mennonite Central Committee, began to experiment with the VORP process with a limited number of cases referred by Judge William Bontrager. Having visited the program in Kitchener, they understood the basic procedures for processing these initial cases.

Similar to Kitchener, the cases in Elkhart also yielded good results for both victims and offenders. The primary concern of these early VORP advocates related to reconciliation of victim offender conflict appeared to be working out quite well. While the initial VORP project in Elkhart began in the Probation Office, within a very short period of time it became obvious to both probation staff and Zehr that VORP needed a community based organization to directly sponsor it so that it could receive the necessary attention required to fully develop such a program. In addition, it was believed, that the actual process of mediation required third party neutral citizen volunteers, rather than probation officers who might have a conflict of interest and certainly had little extra time for new programs because of high caseloads.

During the process of trying to identify an appropriate community based group to sponsor VORP, the initial VORP activists in Elkhart learned of the PACT (Prisoner and Community Together) organization based in Michigan City, Indiana. PACT had a significant amount of experience in developing and administering community correctional programs in several locations of northern Indiana at that time. Following several discussions with PACT, a decision was made to establish a local chapter, to be known as Elkhart County PACT. Through its existing network of funding contacts, PACT was able to secure some initial resources to supplement those committed from the local community from a Mennonite congregation.

Later PACT was able to secure a large multi-year out-of-state foundation grant to fully develop the program. As a result of the joint effort of the initial VORP founders in Elkhart and the larger PACT organization, the first VORP project in the U.S. grew from a small, fledgling, and rather disorganized program into a highly professional and well funded effort. It now was able to provide a solid base of experience and documentation for later replication of VORP programs in many other jurisdictions of the United States, as well as England and several other countries.

As the program in Elkhart continued to mature, a joint decision was made by Elkhart County PACT and the larger PACT organization to separately incorporate the Elkhart chapter as a totally independent local organization. In the fall of 1984 the former Elkhart County PACT which pioneered the first VORP in the United States became the Center for Community Justice.

## **CHAPTER II: KEY ELEMENTS OF PROGRAM**

The concept of victim offender reconciliation through a face-to-face meeting with the assistance of a trained mediator is one of the more unusual applications of conflict resolution techniques. Mediation and conflict resolution programs addressing a wide range of disputes are becoming widely endorsed, developing in many locations throughout the country, as evidenced by recent dispute resolution program directories published by the American Bar Association and the National Institute for Dispute Resolution. For some within the broader conflict resolution movement, there appears to be a tacit assumption that the techniques for resolving inter-personal conflicts can only work effectively with relatively minor neighborhood or civil disputes, through pre-trial or even pre-system intervention.

Many of these "relatively minor disputes" can involve quite intense and emotionally charged inter-personal conflict, despite the fact that a crime has not formally been committed. However, the thought of intervening in serious criminal conflict still seems inappropriate or irrelevant to a large number of dispute resolution advocates and practitioners. Yet, there exists a small but steadily increasing nationwide network of private and public organizations which are applying many of the same mediation skills at resolving the emotional trauma and material loss left in the wake of serious criminal behavior, such as the felony offenses of theft, burglary and a select number of violent crimes in some programs. (Specific program characteristics of many of the nearly fifty (50) sites providing victim offender reconciliation services will be identified in the next chapter.)

Through the process of mediating victim offender conflict, anger and frustration can be reduced; offenders can be held accountable for their behavior in a very real and personalized way; victims can receive material assistance; and some offenders can be diverted from initial or continued incarceration in local jails or state correctional facilities. Application of conflict resolution techniques in the context of criminal behavior is certainly not meant for all victims and offenders. Nor is it meant to replace the fine work being done by so many pre-trial civil mediation programs. Rather, the growing nationwide interest in mediation of victim offender conflict, whenever appropriate, represents a small, but creative presence within the broader dispute resolution field.

With the high volume of crime present in nearly every community, many citizens find themselves participants in the criminal justice process. With rare exception, victims are placed in a totally passive position, oftentimes not even receiving basic assistance or information. Offenders are rarely able to understand or be confronted with the human dimension of their criminal behavior. As a result, anger, frustration and conflict are often increased through the justice process.

Contrary to the frequent depersonalization of both victims and offenders in the criminal justice system, the victim offender reconciliation process draws upon some rather old fashioned principles which recognize that crime is, fundamentally, against people - not just the State. Rather than placing the victim in a passive role and

reinforcing an adversarial dynamic which results in little emotional closure for the victim and little, if any, direct accountability by the offender to the person they have wronged, VORP facilitates a very active and personal process to work at conflict resolution for both victim and offender. In doing so, VORP represents a rather unique program within the larger criminal justice system. Few others would choose to work with both victims and offenders.

While there is significant diversity among programs providing victim offender mediation and reconciliation services (many of which do not formally call themselves "VORP") for the purposes of describing the basic program, emphasis will be placed upon the early VORP development efforts in Indiana. In addition, reference will continue to be made to "VORP" as a simple way of representing the larger network of local programs providing victim offender mediation and reconciliation services. It is not, however, to suggest that all such programs are equally characteristic of the initial VORP model and philosophy, or even that they knew of the initial VORP in Indiana when developing their own program.

For those criminal justice professionals and community volunteers interested in developing a VORP-type project in their own community, the most thorough resource available is The VORP Book, a 200 page technical assistance manual which can be obtained through the National Victim Offender Reconciliation Resource Center of the PACT Institute of Justice, 106 N. Franklin, Valparaiso, Indiana, 46383. Developed by Howard Zehr and other PACT staff involved in the first VORP in Elkhart, Indiana, this manual covers every essential aspect of the VORP program, including a detailed overview of the process; an organizer's handbook; a volunteer's handbook; mediator training procedures; and case management procedures, including sample forms and supplemental reading on the victim experience and related issues. This monograph, however, will provide simply a brief description of several key characteristics of the VORP model. Specific areas to be addressed include goal clarification; case referral; case screening; preliminary meetings with offenders and victims; the joint victim offender meeting; the role of the mediator; and case monitoring and follow-up.

## **GOAL CLARIFICATION**

There exist a number of different possible beneficiaries of the victim offender mediation process. Because of this, programs providing victim offender mediation and reconciliation services may attempt to simultaneously achieve multiple, if not conflicting, goals. The result of this occurring can be both confusing and dysfunctional to local VORP program development.

During the initial years of VORP in Elkhart, the program certainly fell into this trap. However, it soon became obvious that a significant amount of work was necessary in order to clarify and prioritize goals. The list of VORP related goals that was developed included: providing an alternative to jail or prison incarceration; reconciliation of victim offender conflict; rehabilitation of the offender; crime prevention; strengthening offender accountability; restitution payment; and

strengthening of victim services. As a result of this process of identifying, clarifying and prioritizing goals, the goal of reconciliation emerged as primary and still remains. The other goals (all very desirable) represent possible secondary outcomes. Yet the basic underlying goal and justification of VORP is reconciliation. Howard Zehr in Chapter II of The VORP Book makes this vividly clear:

We have decided that our first goal is reconciliation. We realize that this is an unusual goal in criminal justice circles, and that it is a difficult goal to define and measure. However it is defined, though, we mean that our first priority is on relationships: we focus on the relational aspects of crime. Attitudes, feelings, and needs of both victim and offender must be taken very seriously. Healing is important. This does not 'mean that we do not want the other things to happen as well; in fact, we do our best to help them occur. While working at the interpersonal goal of reconciliation, for example, we try to work at a more systemic level by striving to be an alternative to incarceration. However, we are clear that reconciliation is our first focus, and this has a number of important implications for program design and operation: the style of mediation, the way we follow up on cases, even how we define a case, are all shaped by that goal.

As Zehr points out, defining and measuring "reconciliation" is difficult. It remains a major need within the larger VORP movement. In the coming years it is likely that one or more research efforts will be addressing this issue. At this point, there would appear to be at least seven important elements of reconciliation, many of which overlap to some extent. These include:

- 1) Offender awareness of the victim as a person rather than an object.
- 2) Victim awareness of the offender as a person rather than a "criminal",
- 3) Offender understanding of the victim's feelings of anger and frustration.
- 4) Victim understanding of the offender's motivation.
- 5) Offender's direct or indirect expression of remorse and victim acceptance.
- a) Negotiation and completion of a mutually acceptable restitution plan.
- 7) Victim and offender satisfaction with the VORP process and outcomes.

## **CASE REFERRAL**

Once goal clarification occurs for the new VORP program, actual case referral criteria and procedures become major operational issues. Cases are usually referred into VORP by the court and probation department. At times, public defenders or prosecutors might make referrals as well. The initial VORP in Elkhart did not have any firm referral criteria related to specific offense categories. As such, in the early years they received a wide range of misdemeanor and felony offenses, including some very minor offenses such as petty theft and shoplifting. While a handful of non-property offenses (i.e., assault and battery) were referred to the Elkhart program, the vast majority of cases were vandalism, theft and burglary of unoccupied dwellings (homes or businesses) committed by juveniles.

With the growing concern among some VORP advocates as to whether or not VORP was simply widening and strengthening the already rather extensive net of social control within American society, as research has indicated so frequently occurs with community correctional programs and "alternatives", a number of VORP projects began to tighten up their referral criteria. With reconciliation remaining as the primary goal, such programs adopted the secondary goal for VORP, by itself or in conjunction with other sanctions, to have some impact as an actual alternative to initial or continued incarceration of certain offenders.

Even those individuals most committed to VORP serving as a substitute for incarceration recognized that at best this might be possible in only a portion of VORP cases, perhaps no more than 50% of all cases referred, unless a program gave up the primary goal of reconciliation. This required trying to identify jail or prison bound offenders who might be good candidates for VORP. Rather than being able to precisely identify all such cases, what occurred usually involved focusing upon case referrals in such categories as the felony offenses of theft and burglary, while also restricting referral of most misdemeanor offenses.

Much more could be said on this difficult issue of targeting jail/prison bound offenders for alternative community based programs than space allows in this monograph. However, it should be pointed out that there exists no simple solution to administering a program like VORP in such a way that it will serve as an actual alternative to the use or length of jail or prison incarceration. Actual VORP experience has found that the likelihood of VORP to have such an impact is directly related to it's being presented to the court as simply one component of a larger alternative sentence plan, oftentimes including weekends in jail for the more serious cases. These plans are frequently prepared by private community based agencies at the request of defense attorneys.

## **CASE SCREENING**

Following agreement with the courts and probation staff related to the type of offenses to be referred into VORP, all cases received by the program will be screened prior to assignment to a mediator. Case

screening focuses upon the following issues:

- 1) There must be some admission of complicity in the offense on the part of the offender.
- 2) There is something to negotiate or discuss. The exact amount of restitution should not be set prior to referral since restitution amounts provide a concrete goal to work on in the meeting.
- 3) There is a possibility of a restitution agreement, through direct financial payment, victim service, or victim directed community service. Those few programs working with violent felony offenses obviously cannot focus upon restitution. The concept of reparation, as pioneered by the Genesee county Sheriff's Department, is certainly more appropriate.
- 4) There is no overt hostility being displayed between the victim and offender with a good possibility of physical violence resulting.
- 5) VORP is not simply added to many other community services and sanctions ordered by the court. Experience has taught that offenders react less positively to VORP when it is perceived as simply one more obstacle or hurdle in a long line of sanctions. However, as mentioned above, in the more serious and possibly jail bound cases VORP might be used within a broader package of sanctions, such as limited incarceration (weekends in jail or shock probation), community service, house arrest, probation, etc. It should be noted that experience has also shown that VORP oftentimes is used as an additional penalty for many offenders convicted of very minor offenses despite the preference of many VORP advocates to the contrary.
- 6) VORP is not to be added on to a standard jail or prison sentence.
- 7) Both victim and offender must be willing to participate in the VORP process, as determined by VORP staff and volunteers. More will be said on this issue in Chapter IV related to research findings.

Whereas in some community correctional programs, such as half-way houses, referrals may be screened out of the program because of the seriousness of the offense, screening out cases in VORP is more likely to focus upon very minor offenses which would represent an under-utilization of the potential benefits of the VORP process for victims, offenders and the community.

### **PRELIMINARY VICTIM OFFENDER CONTACT**

Cases that are accepted into the program are assigned to a mediator who is either a trained community volunteer or staff person. An initial introductory letter is sent to the victim. The mediator then separately contacts the offender and victim, phone call followed by a meeting, to discuss the offense and its aftermath, explain the program, and invite their participation. Many programs meet first with the offender to

determine their perspective and attitude about the offense. It can often be helpful for a mediator to share some of what was learned about the offender when the Initial meeting with the victim occurs. Every effort is made to avoid having to "sell" the program to the victim over the phone during the first call. The mediator, rather, attempts to obtain a commitment from the victim to meet at a place of their convenience in order first to listen to the victim's version of the offense and the concerns they have, and then to invite their participation in the VORP process.

It is not uncommon for victims to need time to consider participating, rather than making a quick decision on the spot. Few victims are immediately enthusiastic about such a confrontation with the offender. While the VORP mediator will attempt to persuade the victim to participate by pointing out a number of potential benefits, during this preliminary meeting and throughout the VORP process the victim has veto power. A great deal of sensitivity must be exercised in communicating with victims during the entire process. Because of this, flexibility is required in selecting locations and scheduling meetings, as well as in regard to the overall time frame in which the process will occur. That victims must not be again victimized by the actual VORP process, however unintentionally, is one of the strongest ethical standards of VORP. In no case is a victim to be coerced into participating in victim offender and reconciliation process.

The importance of the delicate communication processes involved in these preliminary meetings cannot be overstated. Victim participation can easily be lost at the first phone call. The process of building rapport and trust initially with both the victim and offender will be essential during the later joint meeting with both individuals.

Some of the earlier efforts to bring victims and offenders together, related to restitution payment, apparently did not go through this process of preliminary and separate meetings. Several of these programs indicated that victims "simply did not want to meet their offender" and, therefore, these efforts soon dissolved. One can assume that if a victim is simply called in a rather perfunctory, bureaucratic fashion and asked if they would like to meet their offender that they will have little interest in doing so. On the other hand, experience with more than 2,000 cases referred to programs providing victim offender mediation and reconciliation services has found that more than 60% of victims are willing to meet their offender when approached through the process identified above. For some programs and certain categories of offenses, the acceptance rate is even higher.

### **JOINT VICTIM OFFENDER MEETING**

It is only after this initial separate contact and an expression of willingness by both the victim and offender to proceed that the mediator schedules a face-to-face meeting. The meeting begins with the mediator explaining his or her role, identifying the agenda, and stating any communication ground rules that may be necessary. The first part of the



meeting focuses upon a discussion of the facts and feelings related to the crime. Victims are given the rare opportunity to express their feelings directly to the person who violated them, as well as to receive answers to many lingering questions such as "why me?", or "How did you get into our house?", or "were you stalking us and planning on coming back?". Victims are often relieved to finally see the offender, who usually bears little resemblance to the frightening character they may have conjured up in their minds.

During the meeting, offenders are put in the very uncomfortable position of having to face the person they violated. They are given the equally rare opportunity to display a more human dimension to their character and to even express remorse in a very personal fashion. Through open discussion of their feelings, both victim and offender have the opportunity to deal with each other as people, oftentimes neighbors, rather than stereotypes and objects.

Following this very important sharing of facts and feelings, the second part of the meeting focuses upon negotiation of a mutually acceptable restitution agreement as a tangible symbol of reconciliation and a focal point for accountability. Importantly, the court does not simply order a specific restitution amount. If victim and offender are unable to agree upon the amount or form of restitution the case is referred back to the referral source (oftentimes the sentencing judge), with a good likelihood that the offender will be placed in a different program. A written restitution agreement is signed at the end of the meeting by the victim, offender and mediator in nearly 95% of all meetings. Joint victim offender meetings usually last about one hour.

Often for the first time, both victim and offender have real input into what is going to happen to them, VORP is not "done to" the offender and victim like so many other programs and sanctions. Rather, victim offender mediation is truly participatory.

Contrary to what many might suppose, the expression of feelings by the victim typically does not take the form of highly emotional, verbal violence. Some of the initial anger is dissipated through the preliminary meeting with the mediator. Yet, it is very important that some of the initial intensity of feelings be recalled and expressed directly to the offender during the joint meeting.

After the meeting, the contract and a written summary are sent to the referring agency for approval and enforcement. VORP remains in contact with the victim until fulfillment of the contract is verified. In some cases, follow-up victim offender meetings are held, as described below and in the appendix to this monograph.

### **ROLE OF MEDIATOR**

In the final analysis, the effectiveness of any VORP type of program will be directly related to the quality of the mediation. In a very real sense there is an element of art involved in the mediation process which is not required in many other correctional programs, for not everyone has the necessary communication and negotiation skills. While there are no standard qualifications for a mediator, many people are able to learn the

required skills. In fact, diversity among the pool of mediators in a program ought to be encouraged. Some, however, are simply not predisposed to serve as a mediator because of their basic personality characteristics. For example, a highly authoritarian and rigid individual is unlikely to be an effective mediator. On the other hand, a person who always wants to please everyone and is very unassertive is also unlikely to be an effective mediator. Experience has shown that people who can be both quite assertive as well as very flexible and cooperative will do a very fine job in the process of mediating victim offender conflict.

The difference between mediation and arbitration is important to clearly understand. Whereas in arbitration an individual listens to both sides and makes a judgement, in mediation the individual facilitates a process in which the parties in conflict come to their own solution. In the context of VORP, a mediator will never make the final judgement as to the amount and form of restitution. If the victim and offender cannot agree upon a mutually acceptable plan, the case will be returned to the court.

There are essentially four functions of a VORP mediator:

1. Instilling ownership and motivation.
2. Regulating the interaction.
3. Aiding communication.
4. Monitoring the process.

A mediator must develop interest in and commitment to the process. This requires being supportive, reassuring and encouraging. Trust of both parties needs to be built by: being a good listener, encouraging both sides to share their perspectives and feelings, and avoiding taking sides. Part of developing ownership and motivation requires attempting to equalize the situational power of both offender and victim by: giving both sides equal time, making points which may have been missed, being careful to address both sides equally, and choosing a seating arrangement and/or place of meeting that does not emphasize differences in power.

The role of the mediator is to facilitate a conflict resolution process. As a facilitator, it is important for the mediator to regulate the interaction through running the meeting, identifying any communication ground rules and setting the agenda. In addition to conducting the meeting, the mediator may be required to aid one or the other parties in conflict to effectively communicate their concerns. This is particularly so when an offender, for example, is very non-verbal and unexpressive. Throughout the entire process, the mediator needs to continually monitor both the verbal and non-verbal messages being given by the victim and offender, in order to intervene if it becomes necessary. For example, if the victim is aggressively lecturing the offender huddled in his or her chair staring at the floor, the mediator would certainly want to intervene quickly to stop this dynamic.

## CASE FOLLOW-UP

A need that is becoming increasingly evident to many VORP practitioners is related to closer monitoring and follow-up of cases, including the scheduling of additional victim offender meetings when appropriate. In order to strengthen the process of reconciliation and personal accountability of the offender to his or her victim, one or more follow-up meetings between the victim and offender can play a significant role. These follow-up meetings, briefer and less structured than the initial VORP meeting, provide an informal opportunity to review the implementation of the terms of the contract, discussion of any problems that may have arisen related to the payment schedule and simply sharing "small talk" if the victim and offender feel so moved.

The need for and willingness to have follow-up meetings is certainly tempered by the actual amount of restitution to be paid. If only a very small amount of restitution is owed, a follow-up meeting might not be appropriate. On the other hand, if a larger amount is due, brief follow-up sessions (mid-contract and "close-out" meetings) can be quite helpful. As with the initial VORP meeting, victims must not be coerced into follow-up meetings. To date, only an extremely small proportion of VORP cases include follow-up victim offender meetings. A more thorough discussion of follow-up victim offender meetings is provided in the Appendix of this monograph.

While this chapter has covered a number of basic characteristics of the Victim Offender Reconciliation Program, it must be understood simply as an overview. Additional material is offered in the appendix to this monograph. Once again, for those seriously interested in replicating the victim offender reconciliation concept in one form or another The VORP Book is available, along with other audio-visual and written resource and training materials from the National VORP Resource Center of the PACT Institute of Justice in Valparaiso, Indiana.

### **CHAPTER III: REPLICATION OF CONCEPT**

As a reflection of the growing nationwide concern both to provide greater attention to meeting the needs of victims of crime and develop effective alternative sanctions for criminal offenders, Victim Offender Reconciliation Programs (VORPs) have developed in a number of different communities throughout the United States. Representing one of the few recent justice reforms that allow victims to be personally involved in the sanctioning process of the offender, each local VORP facilitates a face-to-face meeting between the victim and offender in the presence of a trained mediator.

Since the initial development of VORP in Kitchener, Ontario in 1974 and later replication by the PACT organization and the Mennonite Church in Elkhart, Indiana in 1978, many individuals and organizations have expressed underlying interest in the victim offender reconciliation concept. The program has received exposure on several television talk shows and documentaries, as well as in a number of national publications, including The Wall Street Journal and Newsweek magazine. Because of this interest in the VORP concept, the PACT organization established the National VORP Resource Center as part of its PACT Institute of Justice (the research and training division of PACT, Inc.), in order to serve as a nationwide clearinghouse for information, training, and technical assistance related to VORP. Since the development of this National VORP Resource Center, thousands of pieces of information about VORP have been distributed throughout the United States and abroad, hundreds of information packets have been distributed, audio-visual resource material has been made available, hundreds of criminal justice professionals and volunteers have been trained, and on-site technical assistance has been provided in more than twenty different states related to setting up local programs.

### **NATIONAL SURVEY**

In 1985, the National VORP Resource Center of the PACT Institute of Justice completed the first nationwide survey of programs providing victim offender reconciliation services. Questionnaires were sent out to a large network of hundreds of private and public correctional programs throughout the country, including correctional departments in every state. Follow-up phone interviews were conducted with those respondents who indicated local development of a VORP program. This survey resulted in publication of the first edition of the National VORP Directory. It includes descriptive information about each local program, profiling such things as number and source of referrals, use of volunteer mediators, case referrals resulting in victim offender meetings, and budget size (available from the National VORP Resource Center, 106 N. Franklin, Valparaiso, IN 46383; \$4.00 per copy).

The data generated by this survey indicates a significant amount of diversity among various programs as the initial VORP concept is further replicated. While programs incorporating the victim offender reconciliation concept continue to be developed primarily by private

organizations, two public sector/system-based programs are enriching the VORP concept by applying mediation techniques to more violent offenses. In such cases, the need for clarification of the facts, expression of feelings and closure would seem to be even greater for some victims. Both the Genesee County Sheriff's Department in upstate New York and the Oklahoma Department of Corrections have used the victim offender mediation process with a select number of violent felony cases such as negligent homicide, armed robbery and rape. During the past year, victim offender reconciliation programs have been developed and are at various stages of implementation in several larger urban, multi-cultural jurisdictions, including St. Louis, Missouri, Milwaukee, Wisconsin, and Minneapolis, Minnesota, necessitating further adaptation of the initial concept.

With the even larger growth of community dispute resolution programs and neighborhood justice centers throughout the country, it became very important during the course of this survey to identify those programs which more clearly utilized the victim offender reconciliation process. Three specific criteria were used to distinguish VORP type of programs from the much larger number of community dispute resolution programs that work with minor disputes or civil court related issues. These criteria included:

- A) The program involves a face-to-face meeting, in the presence of a trained mediator, between an individual who has been victimized by crime and the perpetrator of that crime.
- B) The program operates in the context of the juvenile and/or criminal justice systems rather than the civil court.
- C) In addition to a restitution obligation, the program focuses at some level of intensity upon the need for reconciliation of the conflict (i.e., expression of feelings; greater understanding of the event and each other; closure.)

A brief summary of some of the information received from this survey is illustrative of the diversity within the network of victim offender reconciliation type of programs throughout the United States. A total of thirty-two (32) programs were identified (representing 42 different jurisdictions with a program office), including twenty-one (21) currently in operation and eleven (11) in development with plans for full implementation in 1985. A number of other projects were also located but were excluded from this survey since they were at such early stages of development and a full commitment to implementation during 1985 was unclear. Of the thirty-two programs in the survey, 78% were developed by private sector organizations and 22% were system based/public sector projects. The annual referral caseload for all of these programs totaled just over 2,400, with 1,000 of these referrals from the Oklahoma statewide Post-Conviction Victim Offender Mediation Program.

Cases referred that actually resulted in a face-to-face meeting between the victim and offender ranged from 50% to 100%, depending on the program. The most common figure for cases resulting in a meeting was near 60%. While VORP began primarily with juvenile offenders during its early development (1978) in Elkhart, Indiana the survey found that of those

program which clearly identified the target population for referrals, 54% represent primarily juvenile referrals and 46% represent primarily adults. Many programs work with both. The most common offenses referred were theft and burglary, with 75% of all programs where such information was provided working with predominately felony offenses. Community volunteer mediators were used by 77% of the programs providing data, representing a total of nearly 275 volunteers.

Finally, in reference to the point in the criminal justice system at which the actual VORP meeting occurs, 49% of the programs reported victim/offender meetings at a pre-trial diversion stage, 66% reported meetings held between conviction/adjudication and sentencing/disposition, and 76% reported that VORP meetings occur after sentencing/disposition. Many programs had VORP meetings occurring at more than one intervention point. Some involved all three within the same program.

In order to highlight further the manner in which this justice reform has taken hold during the past seven years in the United States, four specific programs will be briefly highlighted. Two of these programs represent private sector initiatives and the other two represent system-based programs in the public sector. Together, these programs which are operating in Indiana, Minnesota, Massachusetts, and New York display much of the diversity found within the growing network of programs providing victim offender reconciliation services throughout the United States.

### **VALPARAISO, INDIANA**

The Victim Offender Reconciliation Program in Valparaiso, Indiana, fifty miles east of Chicago, was developed in January, 1983 by Porter County PACT. As part of the broader Chicago metropolitan area, this VORP serves a county of 120,000 characterized by the extremes of both heavy industry (steel mills) and agriculture. Referrals to the program come from probation officers, judges and defense attorneys. A close and supportive working relationship is maintained between the courts and probation department in Porter County and Porter County PACT, a private sector organization. During fiscal year 1985 (July 1, 1984 through June 30, 1985), one hundred and twenty-three (123) cases (victim/offender combinations) were accepted into the VORP program in Valparaiso, with 55% of these cases resulting in a face-to-face victim offender meeting, most often mediated by a trained community volunteer. Seventy-two (72) offenders and eighty-four (84) victims were accepted into the program. Nearly 80% of cases (victim/offender combinations) involved juvenile offenders, with burglary, theft and criminal mischief representing the most common offenses. Nine out of ten restitution contracts negotiated by victims and offenders were completed.

While initial development of this VORP focused upon post-adjudication/conviction referrals, more recently program referral criteria and procedures have been revised in order to secure referrals at a much earlier point in the justice process, including the preference for the face-to-face victim/offender meeting to occur following adjudication/conviction and prior to disposition/sentencing. These recent

program revisions have also resulted in a significant increase in case referrals, including increases in adult offenders and felony type offenses. Contrary to nearly all other VORP projects, direct payment of financial restitution by the offender to the victim is allowed by the court in this program. Additionally, the Victim Offender Reconciliation Program in Valparaiso, Indiana appears to be the first VORP project in the country to systematically experiment with the use of follow-up victim offender meetings in order to strengthen the process of reconciliation.

### **MINNEAPOLIS, MINNESOTA**

The effort to develop a Victim Offender Reconciliation Program in the Minneapolis/St. Paul area (with a population of around 600,000) represents one of the first major efforts to replicate VORP in a large urban and multi-cultural setting. Through the leadership of the Minnesota Citizens Council on Crime and Justice, a well established private organization providing services to victims of crime and families of prisoners, as well as educational and research projects, VORP began accepting cases in early 1985. Referrals come primarily from probation officers and the program works closely with the probation and court services staff in both Hennepin and Ramsey counties; In its first two months of operation, twenty-four (24) cases (victim/offender combinations) were accepted into the program, all representing juvenile offenders in Hennepin County (Minneapolis). Plans are currently underway to receive adult referrals in Ramsey County (St. Paul).

This VORP project is focusing entirely upon offenders adjudicated/convicted of burglary. Actual victim/offender meetings occur between the point of adjudication/conviction and disposition/sentencing whenever this is possible. As the program becomes fully operation it is currently projected that one hundred and twenty (120) cases will be referred to VORP annually. Use of co-mediators, including representatives of local neighborhoods, and follow-up victim/offender meetings is being considered.

### **QUINCY, MASSACHUSETTS**

Having already pioneered the nationally recognized "EARN-IT" Program involving a very extensive use of community service and restitution, Judge Albert Kramer initiated the development of a program to provide victim offender reconciliation services out of the Probation Department of the Quincy District Court. While Quincy itself has a population of about 100,000, it is actually part of the larger Boston metropolitan area. During a recent year, sixty (60) cases (offenders) were referred to the program, involving sixty (60) victims as well. Eighty percent of the cases referred resulted in actual victim/offender meetings. These sessions occurred either between adjudication/conviction and disposition/sentencing or after disposition/sentencing. Eighty percent of referrals represented adult offenders and 60% of referrals represented felony offenses.

The victim offender reconciliation program in Quincy, Massachusetts functions as part of the larger EARN-IT Program. A separate staff person was hired to direct the program and this individual has no probation caseload responsibilities. The VORP concept is used as a technique for collection of restitution. Eighty-five percent of contracts worked out by victims and offenders were completed.

### **BATAVIA, NEW YORK**

The Genesee County Sheriff's Department in upstate New York (Batavia) is the only known law enforcement agency in the country to be sponsoring a program incorporating the victim offender reconciliation concept. In 1983, Sheriff Doug Call initiated the Community Service/Victim Assistance Program in this small rural county of 60,000. The manner in which the victim offender reconciliation concept has been used in this jurisdiction is rather unique in that it is part of a larger and more intense victim assistance program. VORP is part of a larger victim assistance and victim directed sentencing program operated by the Genesee County Sheriff's Department. While only seventeen cases have been processed as of early 1985, the quality of these cases has been rather exceptional. Whereas nearly all victim offender reconciliation type of programs work with primarily non-violent felony offenses, nearly all of these cases in Genesee County have represented violent offenses such as criminal negligent homicide, rape, armed robbery, assault and sodomy. Referrals to this program come from the courts and the District Attorney. Actual VORP meetings usually occur either between conviction and sentencing or after sentencing.

The Sheriff and his assistant, Dennis Wittman, have chosen to use victim offender reconciliation conferences only in more serious cases involving harm to people, including loss of life, since it is their belief that there is often a far greater need for expression of feelings to the offender, understanding of the event and working toward closure among selected victims of such traumatic crimes. Only those victims who have already received an extensive amount of service from the Sheriff's Department and who express willingness to confront the offender are considered for victim/offender reconciliation conferences. Participation by the offender is usually part of a larger package of sanctions, often including limited incarceration in the jail. The actual victim/offender conferences; focus entirely upon reconciliation of the conflict. Discussion of restitution does not usually occur, although the Sheriff's Department does make sentencing recommendations to the court which may include restitution or a reparation payment. All cases are mediated by the staff director of the program, although other staff or volunteer co-mediators are sometimes used.

### **CONCLUDING REMARKS**

The victim offender reconciliation process has clearly grown from an experimental concept to an increasingly accepted program within the criminal justice system, in numerous and diverse jurisdictions. At the



time of preparing this monograph more than 50 different program sites providing victim offender mediation and reconciliation services are known to be in operation or development. Based upon the continuing requests received by the National VORP Resource Center for either general information or on-site technical assistance, it would seem likely that additional programs applying victim offender mediation and reconciliation techniques will be developed in the future. The constituency advocating this concept remains rather modest in size and the actual process is certainly no panacea to be applied indiscriminately to all victims and offenders. Yet mediation of victim offender conflict can perhaps increasingly offer a creative, though small, contribution to both the larger victim advocacy movement, as exemplified by NOVA (National Organization for Victim Assistance), as well as the broader dispute resolution movement, as seen by the leadership of the American Bar Association, the National Institute for Dispute Resolution, and other related organizations.

## **CHAPTER IV: VORP RESEARCH FINDINGS**

The first major assessment of the victim offender reconciliation process as it was initially developed in the United States was completed in the spring of 1985 by Dr. Robert B. Coates, Research Director of the PACT Institute of Justice and John Gehm, Research Associate. In addition to highlighting the findings of this initial VORP research project, which was exploratory in nature, two additional studies will be briefly noted. The first represents a limited assessment of two Canadian VORPs. The second represents an older piece of research, which, while not specifically evaluating VORP, still providing relevant data on the impact of victim contact on juvenile offenders having a restitution responsibility.

### **VORP Research Questions**

The research conducted by the PACT Institute of Justice focused upon six central questions:

- 1) Who participates in the VORP process and why?
- 2) How does the VORP process actually function?
- 3) How do the consumers of VORP evaluate it?
- 4) What are the immediate outcomes of VORP process?
- 5) To what extent does VORP function as an alternative to incarceration?
- 6) What contextual issues influence the development and shape of VORP in local communities?

The study examined three programs in Indiana (Porter and Elkhart counties in northern Indiana, as well as Hoosier Hills serving four counties in southern Indiana). The 1984 data sets mentioned below also include information from programs in Monroe County, Indiana and Allen County, Ohio.

Those individuals who are interested in a more detailed description of this research project, including the methodology and findings, should contact the PACT Institute of Justice in order to obtain a full copy of the final report. For the purposes of this monograph, a relatively brief summary of some of the highlights of this research will be presented.

### **Data Sets**

The research generated seven data sets which were drawn upon to describe the VORP approach, responses to it, and outcomes. While the data sets, in some respects, were small, they were sufficient to provide a rich source of information about the victim offender reconciliation process. The specific data sets were:

- 1) 1983 matched sample of VORP and non-VORP offender referrals. Seventy-three VORP offender referrals were drawn from Porter, Elkhart, and Hoosier Hills. These VORP referrals were then matched with seventy-three offenders who were not referred to VORP

by the respective probation department. Offenders were matched, using probation and court records, according to 1) female/male; 2) juvenile/adult; 3) race; 4) prior conviction (yes/no); 5) prior incarceration (yes/no); and 6) most serious current charge for which convicted.

2) 1984 interviews with victims who had participated in VORP face-to-face meetings. N equals 37.

3) 1984 telephone interviews with victims declining to participate in VORP. N equals 26.

4) 1984 interviews with offenders who had participated in VORP face-to-face meetings. N equals 23.

5) 1984 interviews with VORP program staff and mediators. N equals 22.

6) Interviews with criminal justice officials - probation officers, judges, prosecutors. N equals 27.

7) 1984 observations of face-to-face meetings. N equals 9.

### **Consumer Perception of Goals**

In examining the question of how VORP staff and participants perceive the goal of the victim offender reconciliation process, the study found no consensus. Consistent with the experience of many other reform efforts, the original goals of early VORP advocates were not found to be widely shared by the key participants in the VORP process. The study points out how this lack of shared goals, or perhaps more appropriately, the appeal of VORP to very diverse constituencies, can be both a strength and a weakness. Dr. Coates states in the final report, "It is a strength as people see what they want to see and therefore are more willing to become involved. It is a weakness as it relates to frustration among staff who believe in the importance of a single, central purpose." In order to prioritize these diverse goals, the following rank-ordered lists emerged.

#### Staff and Mediators

1) Humanize the criminal justice process through face-to-face meetings.

2) Increase offenders' personal accountability for actions.

3) Provide meaningful roles for victims in criminal justice process.

4) Provide restitution for victims.

5) Provide opportunity for reconciliation between victim and offender.

6) Enhance community understanding of crime and criminal justice.

7) Provide an alternative to incarceration.

#### Victims

1) Recover loss.

2) Help offender stay out of trouble.

3) Participate meaningfully in criminal justice process.

- 4) Get questions answered and expression of feelings.
- 5) Punish the offender.

#### Offenders

- 1) Avoid harsher punishment.
- 2) Get the whole experience of the crime and consequences finished.
- 3) Make things right.

#### Criminal Justice Officials

- 1) Provide restitution to victims.
- 2) Useful involvement of victim in criminal justice.
- 3) Help offender stay out of trouble.
- 4) Ease probation load.
- 5) Humanize criminal justice process.
- 6) Alternative punishment.

It is interesting to note that in these rank orderings of different goals, the early emphasis by some upon VORP as "an alternative to incarceration," (as well as the reconciliation emphasis) do not rank as highly as one might have expected.

### **Offender Participation**

Based upon the 1983 sample of offenders referred to VORP, a good descriptive picture of offender participants is found.

- medium age at offense: 16
- 78% juvenile
- 92% Caucasian
- 93% male
- 19% at least one prior conviction
- 93% no prior incarceration post-conviction
- 54% convicted burglary
- 27% convicted theft-felony
- 12% charges dropped (primarily criminal mischief).

As the report notes, the data suggests that offenders referred to VORP tend to fall in the mid range in terms of offense seriousness with most not having been previously convicted or incarcerated. Referral of these offenders to VORP occurred at the time of sentencing for most. The question of why offenders participate in VORP yielded some interesting findings. VORP staff frequently emphasize the voluntary nature of participation by offenders, and yet, the research found that offenders participate because they believe they must. Criminal justice officials shared this view as well.

This is quite understandable when one realizes that offenders are ordered by the court to participate in the Victim Offender Reconciliation Program. It should be noted, however, that despite this formal referral by the criminal justice system, VORP staff do occasionally send cases back to the court based upon the offenders unwillingness to meet the victim.

## **Victim Participation**

Particularly since there exists a certain amount of skepticism by many criminal justice officials, as well as by much of the general public, related to victim interest in and willingness to confront their offender face to face, the question of why some victims choose not to participate was examined. As a result of a telephone survey of 26 victims who chose not to participate in VORP, the following are rank order responses:

- 1) perceived hassle of involvement not merited by loss.
- 2) fear of meeting the offender/meeting at victim's home.
- 3) had already worked out settlement.
- 4) too much time delay from point of crime.

Thirty-seven victims who had completed face to face meetings with offenders through the victim offender reconciliation process did so for the following reasons, in rank order:

- 1) to recover restitution for loss.
- 2) to help the offender.
- 3) useful way to participate in criminal justice process.
- 4) to ask questions of or express feelings to offender.
- 5) better means of punishing offenders than traditional process.

The report notes that many of these victims wanted to "teach the offender a lesson", that the offender's behavior had hurt people and that he or she should be held accountable. Nearly all of these persons were victims of property related crimes: 32% burglary, 29% theft, 21% vandalism, 13% fraud, and 3% assault. The age of victims who met with their offenders in the VORP program cut across the full range, with 14% under 30, 14% over 61 and the remainder spread evenly in between. In addition, 24% had not completed high school, 24% had completed college and 51% indicated that the 12th grade or some college was the highest grade completed.

## **Consumer Perception of Process**

In order to consider consumer evaluation of the victim offender reconciliation process, the research examined the responses from 37 victims and 23 offenders who had participated in face-to-face meetings during 1984. Both victims and offenders believed that the program was initially explained very well to them by mediators. While offenders felt as that they had little choice as to whether or not to participate since they were directly ordered by the Court to do so, victims did not feel any pressure to participate.

This is a particularly important finding since VORP practitioners certainly want to avoid presenting the program itself in such a manner that it becomes an added hassle and burden to the victim, even if it is offered out of the best of intentions. If victims were coerced into such

a program, the program itself would take on a victimizer role. On the other hand, the fact that offenders feel they must participate certainly does run counter to much of the earlier VORP rhetoric related to the "totally voluntary nature" of both victim and offender participation.

Offenders were more likely to express concern about meeting the other, fearing the potential conflict that could result from such an encounter. Yet nearly two-thirds in each group indicated that the meeting had not been conflictual. Credit was frequently given to the mediators for "keeping the lid on" while encouraging discussion of feelings. Satisfaction with the VORP experience occurred with 83% of the offenders and 59% of the victims. Another 30% of victims were somewhat satisfied. Some level of dissatisfaction was expressed by only 11% of the victims and much of this was related to not receiving full restitution rather than the VORP meeting itself. If they had the opportunity to do it over again, 97% of the victims would still choose to participate in VORP. The same percentage of victims would recommend VORP to other victims of crime. All of the offenders would again choose to participate in VORP if they had a choice.

In order to further examine why there is such a high level of satisfaction with the process, the study attempted to identify the most satisfying and least satisfying elements of the experience for both victim and offender. Victims identified the following elements as being the most satisfying about the victim offender reconciliation process:

- 1) the opportunity to meet the offender to obtain a better understanding of the crime and the offender's situation
- 2) the opportunity to receive payback for loss
- 3) the expression of remorse on the part of the offender
- 4) the care and concern of the mediator.

The study notes that "it is interesting that more victims commented on meeting with the offender than on restitution, given that the number one reason that most victims choose to participate in the first place was financial restitution." Aspects of the process that victims found least satisfying were:

- 1) lack of adequate follow-up and leverage on the offender to fulfill the agreed upon contract.
- 2) the time delay from offense to actual resolution through the VORP process.
- 3) the amount of time required to participate in VORP.

From the offender's perspective, the most satisfying things about the process were:

- 1) meeting the victim and discovering the victim was willing to listen to them.
- 2) staying out of jail and in some instances of getting a record.

- 3) the opportunity to work out a realistic schedule for paying back the victim and "making things right".

The research found that an offender would often list meeting the victim as both the most satisfying and the least satisfying part of the experience. The study suggests that this probably reflects the tension between, on the one hand, the stress experienced in preparation for meeting the victim, and on the other hand, the sense of relief over having taken steps "to make things right."

Offenders were also dissatisfied when a group of offenders committed an offense but not all participants were required to go through VORP, as a result of the judgement of the court related to the appropriateness of VORP for the other co-defendants. Another concern that led to dissatisfaction among offenders was the time delay in processing the case.

### **Consumer Perception of Justice**

One of the most debated issues within the larger criminal justice arena, as well as within the community of VORP practitioners and advocates, relates to the appropriate role of punishment of criminal and juvenile offenders. Some advocates of victim offender reconciliation would strongly state that VORP is an alternative to punishment, therefore implying that offenders are not punished through the VORP process. Other VORP advocates place greater attention upon how the program is actually experienced by its consumers, therefore recognizing that, while the intent of VORP may not be to punish, one real impact may in fact be a different punishment experience for the offender. As the VORP research project examined this question, it was found that seventy percent of the victims interviewed believed that the offender had been adequately punished. While only five percent of these victims felt that the offender had been punished too much by VORP, nearly twenty-four percent believed that VORP alone was too little punishment. In regard to the perception of offenders, the report notes:

Offenders are even clearer that VORP is a punishment. For 87% of the offender sample additional forms of punishment were also received. Sixty-five percent felt that they were adequately punished; 35% believed that they had received too much punishment.

There are several other interesting findings related to consumer perception of justice. The use of VORP as an alternative to sending an offender to jail or an institution was agreed upon by a majority of victims (95%) and offenders (87%), including a clear emphasis upon first offenders and property offenders. However, in many jurisdictions these people are not likely to be at risk of going to jail!

Attitude change related to victim and offender perceptions of each other as people and not as stereotypes was established in only about a third of the cases. Particularly because of the strong concern within the basic VORP philosophy to do precisely this, subsequent research will need to more thoroughly examine this issue through the development of

additional methodological techniques and measurements.

Finally, the research found that seventy-nine percent of the victims and seventy-eight percent of the offenders believed that justice had been served in their cases.

### **Outcomes of VORP Process**

Offenders were referred to VORP primarily at the point of sentencing, representing eighty percent of the sample. For nineteen percent of the offender sample (juveniles), VORP was a means of diverting their case from the formal judicial process. While in only one percent of the cases were offenders referred between the point of conviction and sentencing, this is an intervention point that is more frequently being used in recent years. It was found that VORP was typically used as a condition of probation, along with other sanctions. Only infrequently was VORP used by the courts as the sole sanction.

The research project reported outcome data both in terms of victim offender combinations, which is the preferred case definition for most VORP practitioners, and offender referrals, which is often the preferred case definition by many other criminal justice professionals. Because of the constraints of this monograph, only outcome data related to victim offender combinations will be highlighted.

For victims and offenders who participated in a face-to-face meeting, there is a very high probability that restitution contracts will be agreed upon and successfully completed, as the following data suggest:

- 98% of the meetings held led to contracts.
- 87% of these contracts involved some form of restitution.
- 58% of the restitution involved monetary payment to the victim.
- 32% involved providing some sort of service to the victim.
- 10% involved victim-directed community service or a behavioral change,
- Financial restitution ranged from \$3.00 to \$10,000.00.
- Half of the financial restitution contracts were for \$71.00 or less.
- 82% of the financial contracts had been completed at the point of reviewing the records, 6-12 months after the meeting.
- 90% of the service restitution contracts had been completed at the point of reviewing the records.
- The average number of hours of service for the victim was 31.

### **VORP As Alternative to Incarceration**

From its inception, the Victim Offender Reconciliation Program has focused primarily upon the goal of conflict resolution. Yet, many proponents of the concept were also concerned about the ability of VORP to have some impact, however modest, in reducing the use or length of incarceration in local jails or state institutions, for appropriate offenders. This issue was addressed through a comparative analysis of the



1983 matched VORP offender and Non-VORP offender samples.

Little difference was found between the two samples in terms of the number of offenders incarcerated, with about eighty percent (80%) of each sample not being incarcerated post-conviction. However, when looking at post-conviction time served by both samples, it was found that of the VORP offenders who were incarcerated all served time in the local jail, while nearly half of the incarcerated Non-VORP offenders served time in a state institution. While there was no statistically significant difference between the two groups when looking at days served in detention or jail post-conviction, there was a clear difference in terms of the number of days served in state institutions. The research report notes that:

The Non-VORP offenders were confined for substantially longer periods of time than the VORP offenders - 3175 days compared to 613 days. While VORP referrals were as likely to be incarcerated post-conviction as Non-VORP referrals, they were statistically less likely to serve time in state institutions and their average length of incarceration was considerably less than that of Non-VORP offenders: VORP = 8.4 days; Non-VORP = 43.5 days. The cost savings represented by the differential days served between the samples are substantial.

The research does not conclude that the reduction in time served for VORP offenders is directly tied to VORP, yet it does state that, given the strength of the matched samples, the data certainly is suggestive. The victim offender reconciliation process is clearly not having any major impact in reducing the use of incarceration, despite the fact that victims, offenders, and some criminal justice officials interviewed during the course of the research frequently perceived VORP as being an alternative to incarceration. However, the data generated in this exploratory research does suggest that the victim offender reconciliation process has had some modest impact, when used in conjunction with some local jail time, in being used as an alternative to state incarceration, yielding significant cost savings.

The report concludes its analysis of this issue with the following observations:

At this point VORP may be more of an alternative to incarceration in the mind than it is in practice. As more cases are picked up between conviction and sentencing...there may be more opportunity for Judges to assess the offender's experience with VORP before finalizing sentences; and, therefore be potentially more willing to use VORP as a means for reducing reliance on incarceration.

### **CANADIAN RESEARCH**

In a University of Toronto Law Journal article entitled "The Victim/Offender Reconciliation Program: A Message to Correctional Reformers" Tony Dittenhoffer and Richard V. Ericson report on their study

of two VORPs in Ontario. Their research focused primarily upon the systemic impact of victim offender reconciliation programs, particularly on whether VORP serves as an actual alternative to incarceration. To a lesser extent, they also examined other VORP goals related to restitution and reconciliation. The findings of Dittenhoffer and Ericson's research are based upon reviewing all of the cases in one VORP in Ontario from April to November of 1980. A total of 20 days was spent in a VORP office over a five month period. Some additional information was received from another VORP in Ontario. No cases were reviewed from this second program since it was less than a year old at the time.

Following a review of the dangers of "widening the net of social control" through well intentioned "alternatives to incarceration", the authors conclude that the VORPs they studied are not providing real substitutes for either jail or prison incarceration. They point out the multitude of competing interests in the victim offender reconciliation process. Despite the stated goal of VORP to serve as an alternative to incarceration and the emphasis upon reconciling victim offender conflict, Dittenhoffer and Ericson found that judges and prosecutors had little interest in either. These key criminal justice actors were most interested in the ability of VORP to be of assistance to victims of crime. Because so many referrals of offenders into the VORP they studied came from the "shallow-end" of the offense continuum, it appeared highly unlikely that such offenders would even have been seriously considered for either a jail or prison sentence, absent VORP. As they reviewed the program and its place within the larger criminal justice system, they found a tension between the punishment emphasis of many justice system officials and the reconciliation emphasis of the VORP practitioners.

Another point where the philosophy and practice of the specific VORP under study became evident to the evaluators related to the issue of reconciliation itself. While reconciliation was highlighted as the primary goal of the VORP with restitution as a means to this goal, actual practice suggested that the utilitarian goal of restitution often predominated.

Dittenhoffer and Ericson conclude their report by stating:

Consistent with findings on other sentencing alternatives, the conclusion to this investigation is that VORP is probably not answering the need for alternatives to incarceration and that it too has become part of the 'widening net'. There were indications in some of the cases and also in the statements of a few judges that the program may sometimes be used as an alternative to jail...It is possible that, despite such evidence, VORP may yet be defended as a worthwhile program. The appeal of the program for what it can do for the victim, as one main benefit, may far outweigh questions of alternative sanctions for offenders and social control.

While limited in scope and therefore unable to permit a full analysis of all the issues, as the authors point out, the Dittenhoffer and Ericson report certainly does raise a number of critical issues that other

programs providing victim offender mediation and reconciliation services need to take seriously.

### **RELATED RESEARCH**

A very interesting piece of research was completed by Leonard J. Guedalia in 1979, entitled, "Predicting Recidivism of Juvenile Delinquents on Restitutionary Probation from Selected Background, Subject and Program Variables." While this research did not specifically assess the impact of a Victim Offender Reconciliation Program on recidivism, it does provide some very relevant data, since one of the hypotheses tested related to the impact of victim contact on recidivism. The data set for this research consisted of the cases of 200 males, randomly selected from a group of 400, who were placed on probation with a restitution obligation between January 1975 and 1978, as per the records provided by the Juvenile Court of Tulsa, Oklahoma.

One of the 22 null-hypotheses tested in this study was that there would be no significant difference between recidivist and non-recidivist in relation to victim contact. For the purposes of this research, victim contact was defined as "having the offender meet with or write to the person he committed the offense against during the restitutionary probation period in order to pay back or apologize for the offense committed". In his final report, Guedalia makes reference to the fact that earlier researchers (Azrin and Armstrong, 1973; Azrin and Wesolowsky, 1974; Berscheid and Walster, 1967) found that when the offender had to make restitution directly to the victim, stealing diminished significantly. The specific findings of Guedalia support these results.

Those offenders who made contact with their victim had a significantly lower recidivism rate than those who did not. Psychologist Albert Eglash (1958, 1977) has suggested that making contact with the victim "can alleviate guilt and anxiety, which can otherwise precipitate further offenses" (1958, p.20). It would certainly would be less uncomfortable for an offender to face his neighbor, whom he had recently robbed, if he had talked with the victim and made direct restitution, than if he had not contacted him at all. The fact that 75% of the offenders who made contact did so directly, as opposed to writing a letter, suggest that those in charge of restitution programs encourage face to face victim/offender contact.

In addition to the variable of victim contact, those offenders who were either living with both natural parents, were not failing in school, or paid \$100.00 or less in monetary restitution, had significantly lower recidivism rates than their counterparts. Based upon these very positive findings related to victim contact and reduced recidivism, Guedalia proposes that "whenever possible, victim/offender contact should be encouraged," It should be noted that the definition of victim contact in this research is one that includes less intensity than the contact which results from the victim offender reconciliation process as described in

this monograph.

It is interesting that, even with far less intense and apparently quite utilitarian contact between the offender and his or her victim such positive results occur in terms of recidivism. One would certainly think that through the victim offender. reconciliation process that similar results would be found. Attempts are currently underway by the PACT Institute of Justice to examine this precise issue, drawing upon the previously generated matched samples of VORP and non-VORP offenders mentioned earlier in this chapter.

## **CHAPTER V: KEY REPLICATION ISSUES**

With the continually increasing nationwide interest in victim assistance, conflict resolution and community corrections, it would seem likely that further development of programs providing victim offender reconciliation services will occur; yet, the degree of national interest and media attention that criminal justice reforms such as VORP achieve represents a double edged sword. There is no question that such visibility is good for promoting the concept and practice of victim offender reconciliation. However, there exists the very real possibility of significantly altering, if not destroying, the initial concept as it becomes more popular. The impact of potential misapplication of the concept could reduce credibility and respect for the broader network of programs providing victim offender reconciliation services.

Some of the early advocates of victim offender reconciliation perceived VORP as a "model" which had unique characteristics. Experience over the past ten years has, in fact, led to the realization that VORP is more a concept than a program model (which would imply clear parameters for replication in other sites.) As mentioned previously, the essence of the victim offender reconciliation process as initially developed is the focus upon attempting to resolve some of the conflict between the offender and the victim. This occurs through a face-to-face discussion of the facts and feelings related to the criminal event, as well as negotiation of a mutually acceptable restitution agreement. Experience in providing technical assistance to organizations in numerous other states interested in developing a local program based on the VORP concept has highlighted the critical need for each local jurisdiction to adapt the concept to their specific needs. This process of adapting the VORP concept to make it as "jurisdiction specific" as possible requires examining a number of key issues. Within the limitations of this brief monograph, seven important issues will be addressed. Once again, for those readers requiring additional information about replication of the VORP concept should obtain a copy of The VORP Book. Chapter III of that manual specifically addresses a number of issues related to organizing a local program.

### **1.Goal Clarification**

The victim offender reconciliation process has a variety of benefits. Victims are able to become directly involved in the justice process and have an opportunity to get answers to questions, as well as repayment for losses. Offenders have an opportunity to repair some of the damage they are responsible for, to display a more human dimension to their character and may avoid harsher penalties. The community at large may benefit from the increased practice of non-violent conflict resolution techniques, as well as saving scarce tax dollars through the diversion of selected offenders from initial or continued jail or prison incarceration. For these reasons and others, the VORP concept is often clouded by multiple goals, trying to be too many things for too many constituencies.

As mentioned in chapter II, the list of potential goals of the victim offender reconciliation process include: serving as an alternative to incarceration; reconciliation of victim offender conflict; rehabilitation of offenders; prevention of crime; strengthening of offender accountability; increasing services to victims; increasing direct involvement of victims in justice process; and, strengthening of restitution payment. Each of the above possible goals are certainly not, by definition, mutually exclusive. Without local organizers clarifying which goals are most important for their specific jurisdiction, subsequent program development will likely be confusing and dysfunctional at times.

It is hard to imagine a local effort to develop a program to provide victim offender reconciliation services not adopting the primary goal of conflict resolution. If the program does not focus upon working at resolving some of the conflict between the victim and offender it would certainly be questionable if replication of the basic VORP concept (i.e. reconciliation) is occurring. Assuming the primary goal of conflict resolution, each local effort must sort out which secondary goals are important. These decisions will have a major impact on the actual program design and implementation. For example, if a local effort is concerned about their program also having some impact in serving as an alternative to initial or continued-incarceration, very different strategies will be needed in targeting offender referrals and presenting VORP as part of a larger alternative sentence package.

## **2. Community Support**

Early in the development of a local program to provide victim offender reconciliation services consideration should be given to conducting an analysis of key actors within the community. "Key actors" might certainly include criminal justice officials and influential local politicians. Equally important are civic, church or corporate leaders, including representatives of certain neighborhood organizations. A broad base of support will be required to initiate a new program, particularly because of the predictable skepticism of some individuals as to the merit of bringing victims and offenders together in a face-to-face meeting.

In order to analyze the role and support of key persons who can significantly influence the development of a local program, it may be helpful to create and complete a chart using four columns:

1. Identify key local actors (last name/position).
2. Evaluate their power/importance to your program.
3. Evaluate their probable support or non-support for your program.
4. Develop strategy to either gain their support or neutralize active opposition.

Building local community support for a new program also involves developing a marketing strategy. To help prepare a plan for "selling" a VORP type of program to local officials and the public, it may be helpful to complete the following outline:

1. State the purpose of your local program in one sentence.
2. State the human interest aspect of your local program in one sentence.
3. State the public policy (criminal justice system) relevance of your program in one sentence.
4. State briefly the benefits of your program.
5. Identify briefly any possible self-interest the following key actors might have in your program: prosecutor, defense attorney, judge, probation officers, law enforcement officers, and local political officials.
6. Based on the above, develop a general presentation outline for marketing your program to local officials and the public.
7. Identify a brief strategy for utilizing the following local media: newspapers, radio stations, and television stations.

### **3.Funding Base**

Securing sufficient funds to support the operation of a local program is one of the most difficult tasks in the program development process. Fortunately, VORP programs do not require huge budgets, particularly if volunteers are used frequently as mediators. As identified in the National VORP Directory, actual program budgets range from a low of \$10,000 - \$20,000 during the first year, to a high of \$70,000 - \$80,000 in fully operational programs. Budget size is a function of several important variables: caseload projection; use of volunteers; follow-up victim offender meetings; level of existing administrative support; fundraising responsibilities; and public relations responsibilities.

Most of the early VORP programs in Indiana began with very small budgets, as part of a private non-profit community based organization. Churches often provided the initial seed money, followed by other small contributions and foundation grants. A limited amount of federal funding (Office of Juvenile Justice and Delinquency Prevention) became available to some local VORP programs, through the state planning agency. After several years these same programs were only able to further develop as a result of securing more stable state funding through the Department of Corrections (Indiana Community Corrections Act). It is quite unlikely that some of these early programs in Indiana would have even continued to exist were it not for the availability of state funds.

In the context of the broader issue of designing a local program to provide victim offender reconciliation services, the specific task of securing funds should not be postponed until the entire plans for the project are finalized. Rather, potential funding sources should be identified and researched early in the planning process. Once some preliminary plans for operation of the local program, including a tentative budget, have been worked out initial contact with appropriate funding sources may be helpful. This requires the development and circulation of a brief project concept paper which can serve as a helpful marketing tool. Those funding sources who are interested in the project after having reviewed a brief concept paper may then require preparation of a full proposal.

While there exist a variety of formats for preparing funding proposals, there do exist several generic elements which most funding sources require in any grant request. These include:

1. Brief Summary
2. Statement of Need
3. Rationale for Project
4. Statement of Project Goals
5. Statement of Specific Project Objectives
6. Description of Project and Methodology
7. Evaluation Plan
8. Annual Budget, including other funding sources

#### **4.Target Population**

There exist two distinct schools of thought among VORP practitioners. The earlier and probably more widespread group believes that since the primary goal of the victim offender reconciliation process is conflict resolution nearly any case referred by the courts or probation should be appropriate. Therefore, no class of offense (i.e. felony vs. misdemeanor, non-violent vs. violent) is excluded from the program. An early VORP publication emphasized this point. "The VORP process can be applied to almost any kind of case...On the whole, programs have screened cases on a case-by-case basis, rather than establishing very strict eligibility criteria which eliminate whole classes of cases." Those programs that adopt this position tend to receive a very large proportion of misdemeanor offenses, referred to by some as "lightweight cases".

Another group of VORP practitioners is rather skeptical about such a shotgun approach to receiving offender referrals, based upon a belief that implies that the victim offender reconciliation process is equally good for all offenders. Also, the limited resources available to support VORP programs mean that lightweight cases stretch your resources too thin, with the likely result of a greater quantity of cases but a lower quality of mediation and case intervention. The skepticism of these individuals toward such a strategy of receiving case referrals is often rooted in the growing body of literature relating to the experience, and subsequent research, of early advocates of alternatives to incarceration and pre-trial diversion programs. It is widely known today that many of the pioneering efforts in pre-trial diversion of selected offenders into alternative programs, in order to reduce crowded court dockets, actually had little impact on diverting offenders who would have in fact entered the court process had the "diversion" program not been present. What did occur in many of these so-called diversion programs was the identification, processing, and, some would maintain, punishing of a significant number of offenders who never would have even entered the court process, because of weak cases against them or the very minor nature of their offense. Through this process, a significant number of citizens who were not found guilty and may well have been ignored by the system were now labeled and punished, despite the best of intentions to do the



opposite.

Likewise, the experience of developing local programs to serve as real alternatives, or substitutes, for incarceration has also been found, through a growing body of research, to have a number of unintended impacts. Rather than diverting specific offenders who were truly jail or prison bound absent the new alternative offenders who never would have been locked up in the first place were referred to these new alternatives. This dynamic often resulted in harsher and more costly punishments, once again, despite the best of intentions of the initial reform advocates.

The resistance of the criminal justice system to reform is well documented in several articles over the past several years, most notably by Austin and Krisberg in "The Unmet Promise of Alternatives to Incarceration". The historical experience with both pre-trial diversion and alternatives to incarceration certainly suggests a widening and strengthening of the net of social control, rather than a reduction in the degree and severity of state intervention in the processing and sanctioning of criminal offenders.

This awareness of how good intentions do not always yield the desired results has led some VORP practitioners to advocate a more narrowly defined target population. Applying the VORP process only to very minor offenses would be seen as a tremendous underutilization of the reconciliation concept. The need of victims for clarification of facts and emotional closure would certainly be greater, for some victims, in more serious, even violent, offenses. And yet, a VORP project working primarily with "lightweight cases" has probably been stigmatized by the local justice system as appropriate for only those very minor cases. For those VORP projects concerned about the secondary goal of serving as an alternative to initial or continued incarceration for some of the offenders referred to the program, local sentencing patterns will need to be reviewed in order to attempt to target certain offenders who are jail or prison bound but may be good candidates for VORP in conjunction with a larger alternative sentence plan.

Regardless of which school of thought one feels most comfortable with, the need to clearly identify the population of offenders from which referrals to VORP can be drawn is critical to both implementation of the stated goal of the program and later evaluation.

## **5. Program Design**

The most crucial, yet difficult, element in replicating a concept is found in the ability to design the local program in such a way that it will maximize the achievement of the primary goal, with impact upon the designated target population. Clarification of goals and identification of a target population can easily remain an abstract, if not irrelevant, exercise if not directly formulated as precise strategies for how a local program will operate. For this reason, the task of effective program design is the most demanding and critical step in any local replication effort. The experience of the National Victim Offender Reconciliation Resource Center in providing on-site technical assistance in more than twenty states has invariably found the issue of program design to be the

easiest for some local organizers to underestimate and the most likely to result in subsequent problems.

While there is certainly no simplistic or perfect way to design a local program that will provide victim offender reconciliation services, there are several key issues that must be addressed in one fashion or another by any group sponsoring such a project. For the purposes of this monograph, several of the most crucial program design issues will be highlighted.

Perhaps the most fundamental issue is determining which local agency should sponsor the program. Experience, availability of staff and funding, credibility in the community, including among victims and offenders, must all be considered. In some communities, the establishment of an entirely new non-profit organization might be the most effective strategy. Contracting with an existing private agency could also be workable in many communities. Local probation departments might be the most realistic initial sponsor, particularly in smaller communities. Regardless of which agency ends up sponsoring the program, there should exist a strong philosophical commitment to the value of mediating victim offender conflict and a keen sensitivity to the needs of both offenders and victims of crime. Put simply, an organization that in philosophy and practice is a firm, if not blind, advocate for either victims or offenders alone would not likely be a good sponsoring agency.

The importance of developing clear referral criteria and effective referral procedures cannot be overstated. In a very real sense, this is where "the rubber meets the road". Failure to effectively address these issues will likely result in both few referrals and inappropriate cases. The experience of some programs has found that the more precise the referral criteria and procedures are the better. An abbreviated example of clear, yet concise, criteria and procedures would be:

### **Referral Criteria**

- Adult felony offenders convicted of burglary or theft.
- Identifiable loss by victim which restitution can apply toward.
- Absence of intense hostility which could lead to violence.
- Offender admission of complicity in the offense.

### **Referral Procedures**

- Temporary placement by probation staff of all burglary and theft case files in VORP basket, immediately following conviction.
- Review, in probation office, by project staff of all adult burglary and theft cases within 24 hours of conviction.
- Selection of appropriate cases, subject to final review by probation staff.
- Transference by project staff of case data from client file to VORP referral form.
- Preliminary meeting with offender within 48 hours of conviction, if possible.

- Preliminary meeting with victim within 72 hours of conviction, if possible.
- If both parties are willing to meet, joint meeting of victim and offender within 2 1/2 weeks of conviction, if possible.
- Preparation of brief case report, with restitution contract, to be received by probation for inclusion in pre-sentence report, subject to later court approval, by end of third week following conviction.
- Availability of mediator to testify, upon request, at the sentencing hearing.

The above is simply offered to emphasize the need for clarity. Actual criteria and procedures are usually going to be more detailed. Time frames for implementation are oftentimes helpful if they are understood as targets, not rigid goals. The fact is that because of the inability to predict if and how soon the victim may be willing to confront the offender, as well as coordinating the scheduling a joint meeting with both, it might take longer than the preferred procedures identified above.

As mentioned earlier in this monograph, more VORP projects are attempting to both establish very pro-active referral procedures and to do so between the point of conviction and sentencing. Many judges have expressed their preference for knowing the entire status of the case (i.e. the victim and offender met and agreed upon a restitution plan) prior to formal sentencing. This certainly takes out the uncertainty as to whether a joint meeting will even be possible, given the fact that a significant portion of victims choose not to confront their offender. It should be noted that most programs providing victim offender reconciliation services continue to receive referrals at the point of sentencing.

A decision that must be made early in the development of a local program relates to the issue of the mediation process itself. Should community volunteers be used as mediators, in order to increase citizen involvement in the criminal justice process and to serve as an impartial third party? Or, should only professional staff serve as mediators, given the complexities of understanding the justice system and the seriousness of working with convicted offenders? In either case, what type of training is required?

The early development of the victim offender reconciliation concept in both Canada and the United States emphasized the important role of trained community volunteers to serve as mediators. This was viewed as essential in terms of involving the larger community in the conflict resolution process and in providing a neutral third party facilitator. Yet, other programs have chosen to use only staff mediators, particularly if the caseload is small and high risk referrals are accepted. A growing number of VORP type of programs utilize both staff and volunteer mediators, sometimes working together as co-mediators in the same case. Particularly in more difficult cases or those involving issues of cross-racial or cultural mediation, the use of co-mediators can be helpful. Experience has shown that both staff and volunteers can be very fine mediators. The decision of who should do the mediating is oftentimes related to the overall philosophy and resources of the program. The most

critical issue, whether staff or volunteer, is to be sure that the mediators have been adequately trained, have good communication skills, possess sensitivity to the needs of both offenders and victims, and have no direct conflict of interest related to the specific case (i.e. probation officer or halfway house counselor serving as mediator for client on their caseload and whom they have disciplinary power over).

A final concern that is becoming more important as one looks at designing a local program to provide victim offender reconciliation services relates to the issue of follow-up meetings. Feedback from victims has indicated a concern that there is oftentimes inadequate follow-up as to the offender's compliance with the terms of the restitution contract. At the same time, there exists a renewed commitment to the primary goal of conflict resolution among VORP practitioners. In order to both strengthen the process of reconciliation and to monitor offender compliance, one or more brief follow-up victim offender meetings have proven helpful in some cases. While this is not practiced on a large scale within the broader network of related programs, a small number of VORP type of programs are beginning to use follow-up meetings. The concept paper in the appendix more thoroughly describes the benefits and procedures for such follow-up victim offender meetings.

As so often stated, for those committed to developing a program within their local community, The VORP Book provides very helpful guidance in addressing this issue of effective program design. Particular attention should be given to the organizer's handbook chapter and the mediation training chapter.

## **6. Management Information System**

The development of a management information system can provide an effective mechanism for the collecting, storing and retrieving of important information about the program. Dr. Robert B. Coates identifies five proposed uses for data derived from a management information system.

1. To assist the delivery of service in the field.
2. To document accurately what is done.
3. To facilitate supervision of staff and volunteers.
4. To provide a basis for program evaluation which can inform planning, program development, and policy formulation.
5. To provide a basis for presenting the program to potential users, funders, and other interested groups.

For some the concept of a management information system immediately suggests endless paperwork and hassle. On the contrary, a good MIS should increase efficiency, streamline paperwork, and systematically provide very helpful information to both supervisory and line staff. In order to develop such an MIS the local program must determine: what data is needed in order to meet the desired uses of the system; how and in what form the data will be collected; how the data will be managed; and, how the MIS can be used for evaluation, feedback and reporting purposes.

An example of sample forms frequently used in the management information systems of local VORP programs includes the following items:

1. VORP Case Record Form
2. Case Referral Form
3. Victim Letter
4. Victim Guidelines
5. Volunteer Narrative Form
6. Progress Report Form
7. Victim/Offender Contract
8. VORP Meeting Evaluation Form
9. Restitution Follow-up Letter
10. VORP Input Log
11. VORP Output
12. Statistical Summary Sheet
13. Restitution Check Form

### **7. Mediation Training**

A number of basic characteristics are important to keep in mind as the local program considers specific individuals who may be potential mediators. These include: good communication and negotiation skills; ability to be assertive; good organizational skills; commitment to basic conflict resolution techniques and philosophy; and, knowledge of the criminal justice system is certainly preferable.

Howard Zehr states that the training process for volunteer mediators utilized in the initial VORP project in Elkhart, Indiana was designed to do several things.

It must introduce the volunteers to the concept of VORP and its philosophy. It must acquaint volunteers with the basic criminal justice process and the terms they will come across while being a volunteer. And it must introduce volunteers to the skills, styles and duties of a VORP volunteer.

Mediator training usually involves 10-12 hours of classroom training, including information about the local criminal justice system, how the program operates, their role as mediators and extensive role playing of typical cases. The latter is particularly helpful in developing good mediation skills. The classroom training is then followed by the mediator's co-mediating their first several cases with a more experienced mediator, prior to taking on cases by themselves. A variety of training resources are utilized, all of which are available through the National VORP Resource Center of the PACT Institute of Justice in Valparaiso, Indiana. Multiple copies of the VORP Volunteer Handbook are available and for many local programs these manuals provide a very good generic training tool. Two brief slide presentations about the VORP concept and application within the justice system can be either rented or purchased. The "VORP Mediation Training" videotape was produced by organizers of the initial VORP programs in Elkhart, Indiana and Kitchener, Ontario. It

represents a very thorough training aid in the development of mediation skills. As a self-awareness exercise for potential mediators, the Thomas-Kilmann Conflict Mode Instrument has proven to be an effective training resource. Through it, volunteers are able to understand how they approach and feel about conflict. In addition, several entirely new training audio-visual training aids are planned for development by the National VORP Resource Center in the near future. These will address the specific issues related to the practice of victim offender mediation in larger urban and multi-cultural jurisdictions.

In the Appendix to this monograph are several important items related to the training of mediators: a volunteer mediator job description; a sample role play; a sample mediator training session agenda; and, a list of written and audio-visual training resources available through the National VORP Resource Center.

## **CHAPTER VI: FUTURE IMPLICATIONS**

Having originated in Kitchener, Ontario in 1974, the victim offender reconciliation concept now has more than a decade of experience behind it. While these ten years have certainly seen the initial concept applied and modified in a variety of diverse settings, the reform process itself remains relatively young. In response to the growing nationwide interest in the victim offender reconciliation concept, the PACT Institute of Justice established a National VORP Resource Center in 1982. Through this center, thousands of resources have been distributed throughout the country and abroad, many hundreds of criminal justice professionals and volunteers have been trained, conferences have been organized, and on-site technical assistance has been provided to local organizations in more than twenty-five states. The experience of the National VORP Resource Center would certainly suggest that the concept of victim offender reconciliation will continue to receive a significant amount of attention by both criminal justice professionals and the general public. As the VORP concept continues to be replicated in the coming years, there would appear to be several implications for future development of the basic concept, if it is to be further refined and enriched. While there is probably a multitude of potential future implications related to further development of the victim offender reconciliation concept, the following seven key issues are highlighted within the space limitations of this monograph.

### **1. Use of Co-Mediators**

Particularly as the victim offender reconciliation concept continues to be replicated in urban and multi-cultural settings, there is growing evidence that use of co-mediators can be quite helpful. There is a greater capacity to respond to the unique issues that may arise within the mediation process because of cross-cultural dynamics. Actual VORP development in St. Louis, Missouri has found that use of co-mediators in specific cases can be quite useful in enabling mediators to be more sensitive to the multi-cultural and multi-racial aspects of the St. Louis community. Specifically, a white and a black mediator may be used in cases where one or the other of the victim and offender are white and black. Use of co-mediators in St. Louis has also been found to be helpful to the mediators themselves in terms of being able to more thoroughly review and process the case with each other, following the initial meeting.

Co-mediators have also been used by the Genesee County Sheriff's Department in several VORP cases involving violent felony offenses. This proved to be particularly helpful during a case involving a sniper shooting across the main street in a small rural upstate New York community. Two individuals were shot, prior to the sniper attempting to kill himself. While certainly not a typical VORP case, the mediation process was offered to the victims and offender because of the specific circumstances of the offense and the individuals involved. Through two mediation sessions (each an hour and a half long, with the second one also involving several community representatives) the role of the co-mediator was important in preparing for the meetings, facilitating communication

during the meetings and reviewing the case.

A potential pitfall in use of co-mediators is related to the possibility of having two mediators with communication styles that are not complementary. Two overly assertive mediators working together might actually generate some degree of their own conflict within the mediation process which would clearly interfere with the primary agenda of the meeting. The frequent use of co-mediators also requires more volunteers, which for some programs might present a problem.

### **Follow-Up Victim Offender Meetings**

From its inception, the primary goal of conflict resolution has been at the core of the victim offender reconciliation concept. As mentioned throughout this monograph, absent this focus upon resolution of some of the conflict between the victim and offender, the victim offender reconciliation concept loses its uniqueness and is little different than efforts in past years to bring a victim and an offender together to talk about the utilitarian goal of establishing restitution. And yet for some it might seem rather presumptuous to assume that "reconciliation" can occur through one 60-minute meeting between the victim and offender. As the research found, victims who had been involved in VORP certainly raised additional questions and concerns about the lack of consistent follow-up related to the restitution agreement which was mutually agreed upon between the two parties.

Both in order to strengthen the conflict resolution and reconciliation process, as well as to more effectively monitor fulfillment of the restitution agreement, several programs providing victim offender reconciliation services are now routinely scheduling follow-up victim offender meetings in appropriate cases. These follow-up meetings are far less structured and are usually briefer than the initial confrontation between the victim and offender. Experience has shown that they can be quite helpful in monitoring offender compliance with the restitution agreement, as well as for providing an opportunity for additional expression of feelings between the victim and offender. Particularly when there may be some need to modify the initial agreement because of significant events that have occurred, such as the offender losing their job, a follow-up victim offender meeting can be an excellent forum for addressing these issues.

The VORP project in Porter County, Indiana, fifty miles east of Chicago, was apparently the first VORP to systematically experiment with follow-up meetings. Since then, newly developing VORP projects in St. Louis, Missouri, Minneapolis, Minnesota, Milwaukee, Wisconsin, Beloit, Wisconsin, and Lacrosse, Wisconsin are all planning on scheduling follow-up victim offender meetings for appropriate cases. The preference is to have a mid-contract meeting, approximately half-way through the restitution agreement, along with a close-out session when the entire restitution agreement has been fulfilled. Particularly for those jurisdictions which allow direct payment of financial restitution from the offender to the victim, with appropriate receipts being provided, the follow-up meeting provides an excellent forum for direct payment of this



restitution. In the addendum included with this monograph is a more descriptive concept paper about the merits of using follow-up victim offender meetings in order to strengthen the reconciliation process and to monitor restitution payment.

### **3. Violent Offenses**

When the VORP concept was initially pioneered in Kitchener and later replicated in numerous communities of both Canada and the United States, it was assumed that this type of intervention was primarily meant for cases involving non-violent property offenses. The fact that the VORP process included negotiation of mutually accepted restitution essentially ruled out consideration of more violent offenses where there was not any clear restitution obligation present. Certain levels of violent crime, such as robbery or even assault, which might also involve some possible property loss to the victim have been included occasionally in VORP programs, although they represent a very rare referral type. And yet, even during the earlier years of VORP development in the United States, there have been periodic statements by a small number of victims of very violent crime which suggested the relevance of VORP for such cases.

For example, after seeing the VORP project in Elkhart, Indiana highlighted on the NBC Today Show in an interview with Phil Donahue, a rape victim called the VORP program to ask if there was any chance of helping her. She had apparently been victimized several years prior to that time and had an intense need to confront the person who victimized her. Other supportive people in her life discouraged this and yet when she saw VORP highlighted she thought the program could be of assistance. Staff in the VORP project did find the offender in the Indiana State Prison but did not proceed any further with the case. Too much time had elapsed from the point at which the offense occurred. The offender was now preoccupied with his own feelings of isolation and bitterness related to his prison experience.

Again during the course of a television interview in Chicago, a similar dynamic occurred. VORP was being highlighted along with the Illinois Chapter of Parents of Murdered Children on a local television station. During the course of sharing information about each program, the leaders of Parents Of Murdered Children in Illinois indicated that they could see some real benefits from being able to confront the individual who they believed killed their son. As with so many homicides, there was an on-going friendship between these two individuals and as parents they had many questions related to what led up to the killing. Needless to say, this came as a very real shock to the VORP representative who had never even considered the possibility that victims experiencing the very painful and traumatic loss of a loved one might find assistance in bringing closure to their pain through direct confrontation with the person responsible for the death. On several other occasions, it has been brought to the attention of this author by victims of violent offenses such as child abuse, incest and negligent homicide that confrontation with the offender, in the presence of a trained mediator, was perceived as very helpful to these individuals during their healing process as they

attempted to bring a more healthy closure to the pain and trauma they experienced.

Only two programs providing victim offender reconciliation services are known to work with victims of very serious violent offenses. Both are operated by public sector organizations. The Oklahoma Department of Corrections Post-Conviction Mediation Program periodically works with victims of violent crime, although the vast majority of their cases are non-violent property offenses. As mentioned previously in this monograph, the Genesee County Sheriff's Department in upstate New York focuses exclusively upon violent felony offenses. Specific cases they have worked with have included incest/rape, attempted manslaughter, negligent homicide, armed robbery, and criminal recklessness involving a sniper shooting of several individuals. As a result of direct interviews with several of these victims by the author of this monograph, it became very clear that the victim offender reconciliation process was quite helpful to these individuals in both getting answers to lingering questions they had about the offense and in bringing a greater sense of emotional closure to the trauma they experienced. One specific victim who lost her husband from a drunk driver who was convicted of negligent homicide stated "It was only at that point at which I confronted the man who killed my husband that I was able to move beyond the bitterness within my heart and to a greater sense of peace."

#### **4. Broader Networking**

The victim offender reconciliation concept relates to at least three major constituencies: corrections; victim assistance; and, dispute resolution. Each of these groups has a well-established national network for sharing information through conferences and newsletters. While many individual programs providing victim offender reconciliation services, as well as the National VORP Resource Center, have had dialogue with representatives of the victim assistance and dispute resolution movements, this has probably not occurred with the frequency necessary to result in more substantive information sharing and knowledge transfer. In the coming years it would certainly be desirable if there were an increased information sharing and coalition activity around common issues between victim offender reconciliation type of programs and the broader networks represented by the National Organization for Victim Assistance (NOVA), as well as the National Institute for Dispute Resolution.

#### **.VORP in Urban/Multi-Cultural Communities**

As the victim offender reconciliation concept continues to be replicated in additional jurisdictions, the question remains as to whether VORP can be effectively developed in larger urban and multi-cultural settings. There are some who believe the concept is only workable in smaller communities and primarily white middle-class areas. Others from large cities have expressed their belief that the basic concept of mediating victim offender conflict certainly is appropriate in large cities and among minority populations. These individuals point out the

need to effectively adapt the basic concept to the unique characteristics found in larger, more complex urban settings.

Actual experience within the field has found efforts to develop VORP in the large urban and multi-cultural jurisdictions of Atlanta, Dallas, Detroit, Minneapolis, Milwaukee, Portland (Oregon), Seattle, and St. Louis. While these developments would suggest the VORP concept is in fact workable in such communities, nearly all of these projects are still in the early stages of development, with significant problems having faced several. Private community based correctional organizations having to negotiate referral criteria and procedures with complex multi-court systems has been difficult for some. A stronger sense of skepticism as to the workability of VORP in "the big city" by many criminal justice officials has confronted many. The higher volume of crime in general and violent crime specifically, and therefore greater public fear of victimization, must be addressed by all. Apart from the effort in Atlanta which was ended because of inadequate judicial support and use of the program, all of the above mentioned cities are confronting these and other critical issues in one way or another.

The experience of these initial efforts to apply the VORP concept in larger urban and multi-cultural jurisdictions would suggest the following strategies need to be considered:

1. Targeting specific neighborhoods within a larger city to operate a VORP project. This breaks down "the big city" into more workable units.
2. Use of co-mediators, being particularly sensitive to ethnic and racial diversity within the specific neighborhood.
3. Use of neutral community facilities, such as a local neighborhood center, for the site of the actual mediation session. Victims in one specific large urban community strongly expressed their concern that meeting in the homes of victims, such is frequently done in VORP projects in smaller communities, is simply not appropriate in large urban settings. There exists a more heightened sense of fear and vulnerability among victims, as well as the general public, in urban communities according to these victims.
4. Willingness to consider using the VORP technique with certain violent crimes such as assault and armed robbery which are rather common in large urban areas. Precisely because of the high volume of crime in these communities, many offenders who commit crimes that would certainly receive a prison sentence in smaller communities will be placed on probation in bigger cities. A representative from a neighborhood organization in one specific big city expressed her concern that while the offense of burglary might be very appropriate for a local VORP, it might be even more appropriate to include offenders who are frequently committing street robberies and muggings which are terrorizing the neighborhood. She believed the VORP process could help local residents gain a greater sense of control over this problem, thereby reducing some of their fear.

Additional issues facing urban and multi-cultural jurisdictions interested in the VORP concept are described in an article by Howard Zehr which is included in The VORP Book, available through the National Victim Offender Reconciliation Resource Center of the PACT Institute of Justice in Valparaiso, Indiana.

## **6.VORP in Other Correctional Settings**

From the early development of VORP in Kitchener, Ontario, through its replication in various communities of the United States, VORP has primarily operated from a non-residential, community base. Only a handful of locations are known to either have developed or are in the process of considering developing VORP within the context of an existing residential or halfway house program. No projects within criminal institutions are known to be utilizing the victim offender reconciliation process within the United States. However, there is a project in an English prison which involves surrogate victims in small group sessions with inmates convicted of related offenses. Rev. Peter Taylor developed this programs Chaplain at the H.M. Youth Custody Centre in Rochester, Kent. The intent of these meetings, which involve each group of victims and offenders in a series of four sessions, is to facilitate reconciliation.

Consistent with the primary emphasis upon conflict resolution, it would appear as though the victim offender reconciliation concept may be considered as a viable program intervention in a wider range of correctional settings in addition to its traditional use as a non-residential, community based program. This would certainly require further adaptation of the model, yet, it may well be able to be creatively adapted for such settings. Particularly as VORP is considered within halfway houses or correctional institutions, the potential for outright coercion of the offenders to participate and the possibility of utilizing mediators who do not represent neutral third parties becomes far greater. In addition, other benefits for the offender may have to be examined, since it would appear to be less of an alternative sentence than through its current use.

## **7.Measurement of Reconciliation**

As noted earlier, the difficulty of both clearly defining and determining measurable indicators of reconciliation of victim offender conflict remain a significant dilemma facing the VORP movement. In order to more accurately assess the impact in resolving some of the conflict between victims and offenders, far more work is needed in developing appropriate methodological techniques and measurements. It seems likely that one or more research projects in the coming years will address this issue.

In addition to the six specific issues identified above, perhaps the most far-reaching potential implication relates to the very essence of VORP, that of working at reconciling the conflict between the victims and offenders. There are many within the larger VORP movement who view VORP as simply a modest reflection of an entirely different system of justice, one which is rooted in seeking conflict resolution and healing of violated community relationships rather than ever increasing harsher punishments for offenders, with little care being shown to victims. Howard Zehr, one of the initial developers of VORP in Elkhart, Indiana, refers to this as the two paradigms of justice. The old paradigm focuses upon retributive justice. The new paradigm, of which VORP is but a mirror reflection, focuses upon restorative justice. Many within the criminal justice field might think that this sounds like a rather lofty ideal. And yet, the victim offender reconciliation process is based upon a very different perspective of justice, one that might well have a far broader symbolic impact upon broader criminal justice system values than the specific number of VORP programs and cases might suggest.

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Victim Meets Offender: An Evaluation of Victim Offender Reconciliation Programs, Robert B. Coates and John Gehm, PACT Institute of Justice, Valparaiso, Indiana, 1985.

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"VORP as Jail Alternative: Values and Strategy", Mark Umbreit, PACT Institute of Justice, Valparaiso, Indiana, 1982.

"Wider, Stronger, and Different Nets: The Dialectics of Criminal Justice Reform", James Austin and Barry Krisberg, Journal of Research in Crime and Delinquency, 1981.

APPENDIX A. LIST OF PROGRAMS PROVIDING OR DEVELOPING VICTIM OFFENDER  
MEDIATION AND RECONCILIATION SERVICES BY STATE

CALIFORNIA

VORP of the Central Valley, Inc.  
2529 Willow Avenue  
Clovis, CA 93612  
(209) 291-1120

INDIANA

Community Justice Center: VORP Program  
P. O. Box 149  
Anderson, IN 46015  
(317) 649-7341

DeKalb County Probation Dept: VORP Program  
DeKalb County Courthouse  
Auburn, IN 46706  
(219) 925-2400

Monroe County Probation Dept: VORP Program  
103 N. College, Room 203  
Bloomington, IN 47401  
(812) 332-4488

Montgomery County Youth Service Bureau:  
VORP Program  
209 East Pike Street  
Crawfordsville, IN 47933  
(317) 362-0694

Center for Community Justice  
220 W. High Street  
Elkhart, IN 46516  
(219) 295-6149

Floyd County VORP  
120 West Spring, Suite 120  
New Albany, IN 47150  
(812) 948-5444

Harrison-Crawford VORP  
P. O. Box 39  
New Salisbury, IN 47161  
(812) 347-2098

Hoosier Hills PACT: VORP Program  
74 E. Court  
Paoli, IN 47454  
(812) 723-2621



## INDIANA

Porter County PACT: VORP Program

23 E. Lincolnway  
Valparaiso, IN 46383  
(219) 462-1127

Washington County VORP

105 South High Street  
Salem, IN 47167  
(812) 883-1959

St. Joseph County Probation Dept: VORP Program

1921 Northside Boulevard  
South Bend, IN 46615  
(219) 284-9588

## KANSAS

Interfaith Offender Concerns Comm: VORP

P. O. Box 347  
Newton, KS 67114  
(316) 283-5100

Victim Offender Mediation Services, Inc.

216 E. Second, Room 402  
Wichita, KS 67202 (316) 264-5445

Victim Offender Restitution Service

229 South 8th Street  
Kansas City, KS 66101  
(913) 621-1504

## MAINE

Sentencing Options

85 Emery Street  
Portland, ME 04102  
(207) 722-9548

## MASSACHUSETTS

Quincy District Probation: VORP Program

1 Dennis Ryan Parkway  
Quincy, MA 02169  
(617) 471-1650

## MICHIGAN

Community Based Victim Restitution Program  
Team for Justice  
1305 E. State Fair  
Detroit, MI 48203  
(313) 366-0876

Community Justice Alternatives: VORP  
P. O. Box 506  
Traverse City, MI 49685  
(616) 947-4807

Monroe County Adult Probation  
106 E. First Street  
Monroe, MI 48161  
(313) 243-7124

Victim Offender Reconciliation Program  
810 Petoskey  
Petoskey, MI 49770  
(616) 347-2961

St. Joseph County VORP  
26640 Banker Road  
Sturgis, MI 49091  
(616) 651-7587

## MINNESOTA

Justice System Volunteer Program  
Olmsted Courthouse  
Rochester, MN 55454  
(507) 285-8108

Minnesota Citizens Council: VORP Program  
1427 Washington Avenue S.  
Minneapolis, MN 55454  
(612) 340-5432

## MISSOURI

Juvenile Probation Department  
625 26th Street  
Kansas City, MO 64108  
(816) 474-3606

MAT Neighborhood Justice Center: VORP  
1118 North Grand  
St. Louis, MO 63106  
(314) 531-3164

MONTANA

BETA Alternatives: V.O.R.S. Program  
208 N. 29th, Suite 226-7  
Billings, MT 59101  
(406) 259-9695

NORTH CAROLINA

One Step Further  
1105 E. Wendover Avenue  
Greensboro, NC 27406  
(919) 273-5667

REPAY: Victim & Community Restitution  
P. O. Box 816  
Marganton, NC 28655  
(704) 438-9706

NEW YORK

Genesee County Sheriff's Department: C.S./V.A.  
P. O. Box 151  
Batavia, NY 14020  
(716) 344-2556

OHIO

Allen County Victim Offender Services  
P. O. Box 962  
Lima, OH 45802  
(419) 222-8666

OKLAHOMA

P.C. Victim/Offender Mediation Program  
3400 North Eastern Avenue  
Oklahoma City, OK 73136  
(405) 427-6511

OREGON

VORP of Linn County  
330 5th Avenue, S.W.  
Albany, OR 97321  
(503) 928-5323

VORP of Multnomah County  
3600 S.E. 28th Avenue  
Portland, OR 97202  
(503) 235-9019

OREGON

VORP of Benton County  
P. O. Box 1222 - 602 S.W. Madison  
Corvallis, OR 97339  
(503) 757-8677

VORP of Marion County  
1045 Candlewood Dr., N.E.  
Salem, OR 97303  
(503) 390-2230

VORP of Polk County  
12780 Clow Corner Road  
Dallas, OR 97338  
(503) 623-3344

TEXAS

Dallas County Juvenile Dept: Mediation Program  
4711 Harry Hines Boulevard  
Dallas, TX 75235  
(214) 920-7700

VERMONT

Vermont Department of Corrections  
39043 Pearl Street., Room 305A  
Burlington, VT 05401  
(802) 863-7350

Woodbury Associates  
659 Elm  
Montpelier, VT 05602  
(802) 229-0516

WASHINGTON

Victim Offender Reconciliation Program  
4759 15th Avenue, N.E.  
Seattle, WA 98105  
(206) 525-1213

WISCONSIN

Benedict Center for Criminal Justice: VORP  
1027 North Ninth Street  
Milwaukee, WI 53233  
(414) 347-1774

WISCONSIN

Legal Assistance to Institutionalized Persons  
905 University Avenue  
Madison, WI 53715  
(608) 262-1002

Rock Valley Community Corrections  
P. O. Box 932  
Beloit, WI 53511  
(608) 362-4690

St. Francis Community Program  
922 Ferry Street  
LaCrosse, WI 54601  
(608) 782-8008

## APPENDIX B.

### FOLLOW-UP VICTIM OFFENDER MEETINGS

by Mark S. Umbreit

While one intended impact of VORP upon the larger criminal justice system is hopefully to either reduce the use of incarceration for selected offenders or to have an impact on reducing the length of probation supervision, the more human impact of mediating victim offender conflict and encouraging reconciliation remains a primary focus of VORP. With rare exceptions, this process of reconciliation usually involves up to a one hour meeting between the victim and offender, preceded by individual meetings with both the victim and offender. One could certainly raise the question of whether or not we are being rather presumptuous to think that we can mediate victim offender conflict and facilitate reconciliation in essentially a one hour face-to-face meeting. The more cynical within the criminal justice field might suggest that this sounds very similar to like the very popularized "scared straight" programs of several years ago when juvenile delinquents were brought into maximum security prisons and exposed to some very harsh prison realities by convicts. The scared straight programs were hipped up as being tremendously effective in changing juvenile delinquency behavior and yet later research indicated that they had very little impact at all. Obviously, the intervention of a scared straight type of program is very different than that of VORP. On the otherhand, perhaps there is a lesson to learn from the scared straight program with its overhyped impact upon the criminal justice system. If our primary goal in VORP is to reconcile the conflict between victims and offenders, particularly those that may be facing jail or prison time, what makes us believe that one relatively short face-to-face encounter between the victim and offender is sufficient for this reconciliation process?

The purpose of this article is to stimulate discussion within the network of VORP practitioners related to both the possible benefits and problems associated with attempting to strengthen the reconciliation process through use of follow-up victim offender meetings. This article draws upon several discussions among PACT staff, as well as the direct experience, I have had in using follow-up meetings in four of the last five cases in which I served as a mediator in Porter County.

In order to strengthen the process of reconciliation and personal accountability of the offender to his or her victim, it would seem as though one or more follow-up meetings between the victim and offender could play a very significant role. These follow-up meetings would be very different than the initial meeting. They would probably be

less of the structured mediation required in the initial VORP meeting and more of an informal review of implementation of the terms of the contract, discussion of any problems that have arisen and simply sharing "small talk" if the victim and offender feel so moved.

The need for and willingness to have follow-up meetings would certainly be tempered by the actual amount of restitution to be paid. If only a very small amount of money is owed, a follow-up meeting might not seem appropriate. On the other hand, if a larger amount is due, follow-up sessions (mid-contract and close-out meetings) could be quite helpful.

Possible benefits of one or more follow-up victim offender meetings might include:

- 1) The goal of personalizing the accountability of the offender to the victim would certainly seem to be strengthened by follow-up meetings.

- 2) The goal of breaking down the stereotypes that victims and offenders have of each other (i.e., humanizing the process) would also seem to be strengthened.

- 3) Monitoring completion of the agreed upon restitution contract would be facilitated by follow-up meetings.

- 4) It would be easier to learn of any problems arising on the offenders part related to restitution payment if there were two scheduled follow-up meetings.

There are some difficulties that might occur through the use of follow-up meetings. Some of these could be:

- 1) Follow-up meetings might require more staff/volunteer time.

- 2) What if victims and offenders simply don't want to meet a second or third time?

- 3) Would follow-up meetings simply be a hassle for the victim and offender?

- 4) If an existing VORP program already has a huge caseload, there simply might not be time.

My own experience in using follow-up victim offender meetings suggests that perhaps the best time to introduce this into the VORP process is toward the end of those VORP sessions which result in a mutually agreeable restitution

contract. To introduce this prior to the victim and offender directly experiencing some degree of reconciliation through face to face mediation is probably very premature and not likely to result in willingness to participate in follow-up sessions. In four of my last five VORP cases introduction of the preference for one or more follow-up meetings after agreement upon a restitution contract was secured flowed very naturally. Agreement by both the victim and offender did not appear to be a hassle.

The type of wording I used was along the following lines. "In cases like this where an acceptable form of restitution payment has been agreed upon; we prefer to have both of you meet briefly in the near future to see how things are going and work out any problems that may have arisen related to restitution payment. We also prefer to meet upon completion of the restitution contract in order to make the final payment and to answer any remaining questions." I then asked both the victims and offenders how they felt about this and if these two additional meetings were acceptable. Had one or the other felt uncomfortable with this, I would have first proposed simply one follow-up meeting and if this was also clearly unacceptable the issue would be dropped. As it turned out, in all four cases the issue of one or more follow-up meetings was quite acceptable. In fact, the first mid-contract meeting in each case involved the offender bringing the first payment of restitution to give directly to the victim.

As one considers the possibility of follow-up victim offender meetings, the issue of what precisely the agenda for such meetings would be becomes very important. The agenda for the mid-contract meeting would seem to be very clear. It would consist of literally reviewing implementation of the initially signed restitution contracts and, if any problems have arisen in terms of payment of restitution, different alternative solutions for dealing with this problem could be discussed and agreed upon. Where allowable, actual payment of a portion of the restitution could occur during this meeting. The agenda for the close-out meeting is probably less clear because the nature of this session is very symbolic, in terms of closure for both the victim and offender. Once again, final payment and review of the restitution contract could occur to make sure that there are no loose ends remaining. A discussion related to how both the victim and offender now feel many months after initially meeting each other could be encouraged.



In both the mid-contract and close-out meetings there is clearly a secondary agenda present. While the specific content of what being discussed (payment of restitution) is very important, the process of simply facilitating the victim and offender dealing with each other as people, rather than in the roles of victim and offender) is very important. Because of this, seemingly irrelevant comments related to "small talk" should not only be allowed but encouraged.

For those local VORPs committed to trying the use of follow-up meetings more consistently, which includes the VORP projects currently operated by PACT in six counties of Indiana, several implementation strategies will need to occur. First, additional recruitment of volunteer mediators will be required. Second, additional training of current VORP program staff. Third, existing training materials for volunteers will need to be modified. And forth, actual VORP case management procedures will need to be modified to operate on the presumption that those cases which result in a signed agreement will also involve one or more follow-up meetings, unless the victim or offender are very opposed to doing such.

In summary, the very goal that many VORP practitioners are the most committed to, that of reconciliation, might well be significantly strengthened through the use of one or more follow-up victim offender meetings. From my perspective, the four recent VORP cases where I served as mediator have certainly lent support to this process.

## APPENDIX C. SUMMARY OF VORP PROCESS; MEETING AGENDA; FORMS OF RESTITUTION

### VORP PROCESS

- 1) Phone Offender
- 2) Meet with Offender
- 3) Phone Victim (would have received letter)
- 4) Meet with Victim
- 5) Arrange VORP Meeting
- 6) Plan VORP Meeting
- 7) Conduct VORP Meeting
- 8) Schedule Mid-Contract Review Meeting (at the end of initial VORP Meeting)
- 9) Write Report/Fill Out Evaluation
- 10) Return Case Material to VORP Office
- 11) Conduct Mid-Contract Review Meeting
- 12) Conduct Close-Out Meeting
- 13) Submit Report on Follow-Up Meetings

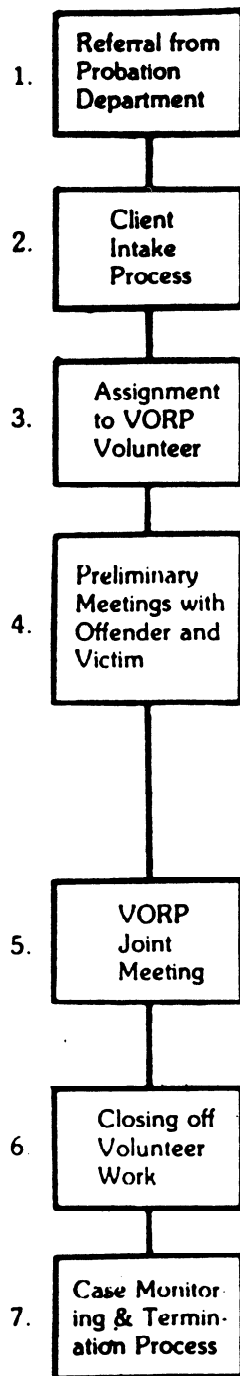
### SUGGESTED VORP MEETING AGENDA

- 1) Introduce Everyone
- 2) Explain Your Role as Mediator
- 3) Explain Procedures, Lay Ground Rules
- 4) Review Facts & Feelings
- 5) Discuss/Negotiate Restitution
- 6) Restate Restitution Agreement & Sign
- 7) Schedule Mid-Contract Review Meeting  
(unless victim is opposed)
- 8) Close Meeting

### FORMS OF RESTITUTION

- 1) Financial Payment to Victim
- 2) Work for Victim
- 3) Work for Victim's Choice of Charity
- 4) Financial Payment to Victim's Choice of Charity
- 5) Offender Enrollment in Treatment Program
- 6) Combination of Above

## APPENDIX D. FLOW CHART OF VORP PROCESS



### THE VORP PROCESS SUMMARY

- a. Probation Officer fills out referral
- b. VORP staff pick up referral

- a. Assign Case number
- b. Fill out Input Log
- c. Check and fill out Client File
- d. Make and file new Case Record
- e. Send Victim Letter
- f. Send Progress Report

- a. Prepare Case Packet
- b. Put name/date on Case Record
- c. Fill out Volunteer Card
- d. File Case Record
- e. Send Progress Report

- a. Volunteer phone contacts victim
- b. Volunteer schedules/holds meeting with victim
- c. Volunteer gives and reviews program/criteria
- d. Still appropriate and wishes to continue

- a. Volunteer phone contact offender
- b. Volunteer schedules/holds meeting with offender
- c. Volunteer gives and reviews program/criteria
- d. Still appropriate and wishes to continue

- a. Volunteer schedules meeting
- b. Volunteer explains goals and ground rules
- c. Offender explains actions
- d. Victim expresses feelings
- e. Victim and offender ask questions
- f. Contract decided on and filled out
- g. Victim, offender and volunteer sign contract

- a. Volunteer writes Final Report
- b. Volunteer fills out Evaluation Form
- c. Volunteer returns Case Packet
- d. Volunteer is debriefed by Volunteer coordinator

- a. Fill out Case Record
- b. Fill out Output Log
- c. Fill out Volunteer File Card
- d. Prepare Final Report
- e. Send Final Report and Contract to Probation
- f. File Case Record in Restitution Pending
- g. File case in Case File
- h. Restitution is paid
- i. Notify Probation
- j. File Case Record in Case File

(From The VORP Book: Chapter II)

# APPENDIX E. NATIONAL VORP MANAGEMENT INFORMATION SYSTEM

1. Program \_\_\_\_\_ (1-2)
2. Case I.D. No. \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_ (3-12)  
(Offender/Year/Victim)
3. Date Accepted \_\_\_\_/\_\_\_\_/\_\_\_\_ (13-18)  
(Month/Day/Year)

## OFFENDER CHARACTERISTICS

4. Sex \_\_\_\_ (19)
  - 1 Female
  - 2 Male
5. Race \_\_\_\_ (20)
  - 1 Asian
  - 2 Black
  - 3 Caucasian
  - 4 Native Amer.
  - 5 Hispanic
  - 6 Other
6. Age \_\_\_\_ (21-22)
7. Prior Convictions \_\_\_\_ (23)
  - 1 Yes
  - 2 No
8. Prior Incarceration \_\_\_\_ (24)  
(as part of a sentence)
  - 1 Yes
  - 2 No
9. Most serious current offense convicted \_\_\_\_ (25)  
[See Code Guide]
10. Category of Offense \_\_\_\_ (26)
  - 1 Misdemeanor
  - 2 Felony
11. Pre-trial detention this offense \_\_\_\_ (27)
  - 1 Yes
  - 2 No
12. Most serious current charge  
[DIVERSION CASES] \_\_\_\_ (28)  
[See Code Guide]
13. Source of referral \_\_\_\_ (29)
 

1 Defense Counsel	5 Prosecutor
2 Offender	6 Victim
3 Judge	7 Probation Office
4 Other community institution	8 Police
14. Point in C.J.S. process \_\_\_\_ (30)
 

1 Not in C.J.S.	4 Post-sentence
2 Pre-trial	5 Amended sentence
3 Post-conviction, Pre-sentence	

## MEETING INFORMATION

15. Victim/Offender meeting held \_\_\_\_ (31)
  - 1 Yes
  - 2 No, victim unwilling
  - 3 No, offender unwilling
  - 4 No, victim not located
  - 5 No, offender not located
  - 6 No, situation resolved prior to meeting
16. Date of initial meeting \_\_\_\_/\_\_\_\_/\_\_\_\_ (32-37)
17. Person(s) conducting meeting \_\_\_\_ (38)
  - 1 Staff
  - 2 Community volunteer
  - 3 Both
18. Mediators - SEX
  - 1 Number of females \_\_\_\_ (39)
  - 2 Number of males \_\_\_\_ (40)
19. Mediators - RACE
  - 1 Number of Asian \_\_\_\_ (41)
  - 2 Number of Black \_\_\_\_ (42)
  - 3 Number of Caucasian \_\_\_\_ (43)
  - 4 Number of Native Amer. \_\_\_\_ (44)
  - 5 Number of Hispanic \_\_\_\_ (45)
  - 6 Number of Other \_\_\_\_ (46)
20. Victims-SEX
  - 1 Number of female \_\_\_\_ (47)
  - 2 Number of male \_\_\_\_ (48)
21. Victims-RACE
  - 1 Number of Asian \_\_\_\_ (49)
  - 2 Number of Black \_\_\_\_ (50)
  - 3 Number of Caucasian \_\_\_\_ (51)
  - 4 Number of Native Amer. \_\_\_\_ (52)
  - 5 Number of Hispanic \_\_\_\_ (53)
  - 6 Number of Other \_\_\_\_ (54)
22. Victims-TYPE \_\_\_\_ (55)
  - 1 Institution/Business
  - 2 Personal/Family
23. Contract signed \_\_\_\_ (56)
  - 1 Yes
  - 2 No, victim unwilling
  - 3 No, offender unwilling
  - 4 Resolved without contract
24. Nature of contract  
"[CHECK ALL THAT APPLY]"
  - 1 Monetary payment \_\_\_\_ (57)
  - 2 Personal service \_\_\_\_ (58)
  - 3 Community service \_\_\_\_ (59)
  - 4 Behavioral \_\_\_\_ (60)
25. Amt. of restitution agreed to \$ \_\_\_\_ (61-64)
26. Hrs. personal service agreed to \_\_\_\_ (65-67)
27. Hrs. community service agreed to \_\_\_\_ (68-70)

## CASE CLOSING INFORMATION

28. Case I.D. No. \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_ (71-80)  
(Offender/Year/Victim)
29. Date closed \_\_\_\_/\_\_\_\_/\_\_\_\_ (81-86)
30. Type of termination: \_\_\_\_ (87)
  - 1 Successful
  - 2 Successful, amended contract
  - 3 Unsuccessful
  - 4 Unsuccessful, special circumstances

31. Number of informal contacts \_\_\_\_ (88)
32. Number of formal follow-up meetings \_\_\_\_ (89)
33. Restitution paid \$ \_\_\_\_ (90-93)
34. Hrs. personal service \_\_\_\_ (94-96)
35. Hrs. community service \_\_\_\_ (97-99)

APPENDIX F. SAMPLE VORP CONTRACT

VORP Case #: \_\_\_\_\_

Victim Offender Restitution Agreement

Victim's Name: \_\_\_\_\_

Offender's Name: \_\_\_\_\_

Offense: \_\_\_\_\_

Date of offense: \_\_\_\_\_

The following individuals have met and discussed the above offense and have agreed to the following:

( ) Payment by the offender of \$ \_\_\_\_\_ in full by \_\_\_\_\_  
Conditions or repayment schedule: \_\_\_\_\_

( ) Hours of work by the offender for \_\_\_\_\_ in full by \_\_\_\_\_  
Conditions or schedule: \_\_\_\_\_

( ) Other agreements (describe precisely): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

( ) No agreement is possible at this time. The matter will be referred back to probation or the court.

( ) The parties to this agreement will meet during the month(s) of \_\_\_\_\_  
\_\_\_\_\_ to review progress towards completing the agreement.

We understand that this contract is subject to the approval or disapproval of the court or probation department.

We further understand that failure to abide by the terms of this agreement may result in further court action, either delinquent/criminal or civil against the offender.

Offender \_\_\_\_\_ Date \_\_\_\_\_

Victim \_\_\_\_\_ Date \_\_\_\_\_

VORP Mediator \_\_\_\_\_ Date \_\_\_\_\_

Victim \_\_\_\_\_ Date \_\_\_\_\_

## APPENDIX G. SAMPLE VORP ROLE PLAY

### VORP ROLE PLAY #3 (Home Burglary)

#### Mediator #3

Don & Kathy Williams had their home broken into by a 19 year old young man who turned out to be their neighbor. They have lived in this community for nearly 20 years. They took pride in their neighborhood and tried to help others whenever they could. Knowing that Jim Ericson and his wife were having a rough time making it, the Williams hired Jim to do some odd jobs around the house. When they found out that it was Jim who broke into their home and took money and other valuable items, they were angry, hurt and felt betrayed.

Precisely because of this, they were not eager to meet with Jim. In fact, they refused to meet with him initially and only agreed after several weeks of further contemplation of the idea.

Jim Ericson had several minor incidents with the police as a juvenile, but he had never gotten in any serious trouble. About a year ago he married his highschool sweetheart and they were renting a home next to Don and Kathy Williams. He had tried over and over to get a fulltime job but was unable to. He worked part-time at minimum wage unloading trucks at a nearby factory. Feeling the pressure of financial needs for himself and his wife and following an evening of drinking, Jim broke into the Williams home and stole \$100.00 in cash, a rare coin collection, and their wedding bands. Within two days he was caught when the police came to his home. He immediately admitted his guilt and felt ashamed of what he had done. He knew he would be punished. Having already served 60 days in the State Prison and experiencing some of the violence of prison life, he was now eager to right the wrong he had done to the Williams through the VORP program and yet, he was quite anxious about the actual face-to-face meeting with the Williams, uncertain of how they would respond.

### VORP ROLE PLAY #3 (Home Burglary)

#### Victim #3

You are Don and Kathy Williams who have lived in this community for 20 years. You take pride in your neighborhood and try to help others when you can. Knowing that your neighbor Jim Ericson and his wife are having a rough time making it as a young couple, you hire Jim to do odd jobs, since you know he is only employed part time.

While you were away one weekend, your house was broken into. \$100.00 cash was stolen, along with a valuable coin collection and your wedding bands. Both of you are particularly upset because these items, other than the cash, are irreplaceable. When you find out that Jim Ericson was the offender, you feel angry, hurt and betrayed.

You are not eager to meet with Jim. In fact, you initially refused to participate in VORP. It was only after you were given several additional weeks to think it over that you finally agreed.



### VORP ROLE PLAY #3 (Home Burglary)

#### Offender #3:

You are Jim Ericson, age nineteen. While you had several minor brushes with the law as a juvenile, you have never been involved in any serious criminal behavior. About a year ago you married your high school sweetheart. Despite continuous job applications, you have only been part-time employed at minimum wage unloading trucks at a local factory. It has been hard paying bills, although the money earned by doing odd jobs for your neighbors, Don and Kathy Williams, has helped. Feeling increasingly frustrated and well aware of some valuable coins in the Williams's house, you decide to break into the house that evening, knowing that no one is home. The six pack you just finished off triggered this decision. After all, you have got to take care of your family.

Several weeks later you are arrested by the police when they come to your house. You admit your guilt and feel ashamed.

The Judge sentences you to 60 days in prison, 2 years probation and participation in VORP.

Having just been released from prison, you are eager but also scared to meet the Williams and repay the damage you caused.